

Also, petition of 53 citizens of Indianapolis, Ind., protesting against war; to the Committee on Foreign Affairs.

By Mr. NORTH: Petition of Rev. Glenn M. Sgafer, president, J. G. Wrightman, secretary, of a public meeting held in Clarion, Pa., praying for the enactment of legislation to abolish polygamy in the United States and any place within its jurisdiction; to the Committee on the Judiciary.

By Mr. OAKLEY: Memorial of Manchester local Socialist Party of Connecticut, deploring severance of diplomatic relations between the United States and Germany; to the Committee on Foreign Affairs.

By Mr. PRATT: Petition of First Baptist Church of Waverly, N. Y., consisting of 550 members and represented by Rev. J. E. Miles, pastor, and Mr. H. R. Cronk, chairman board of trustees, favoring national prohibition and prohibition in the District of Columbia, Alaska, and Hawaii; to the Committee on the Judiciary.

By Mr. ROWE: Petition of Leon Renault, protesting against the District of Columbia prohibition bill; to the Committee on the District of Columbia.

Also, petition of Jennie Heubach, urging the passage of House bill 16358, to establish a Woman's Division in the Department of Labor; to the Committee on Labor.

Also, petition of the employees of the Post Office Department, urging the passage of House bill 17806; to the Committee on the Post Office and Post Roads.

Also, petition of American Book Co., New York City, favoring the migratory-bird treaty act; to the Committee on Foreign Affairs.

Also, petition of Donald Campbell, New York City, favoring the migratory-bird treaty act; to the Committee on Foreign Affairs.

By Mr. SANFORD: Papers to accompany House bill 20917, granting a pension to Elizabeth Hogan; to the Committee on Pensions.

By Mr. VARE: Memorial of members of the Commercial Exchange, city of Philadelphia, supporting the President in the present diplomatic situation; to the Committee on Foreign Affairs.

By Mr. WILLIAMS of Ohio: Petition of Oberlin (Ohio) Loyal Temperance Legion, urging the passage of the joint resolution for national prohibition, the Hawaiian bill, and House bill 18980, to exclude liquor advertising from the mails, and the District of Columbia dry bill; to the Committee on the Judiciary.

By Mr. YOUNG of North Dakota: Petition of J. P. Pillon and 64 other citizens of Lehr, N. Dak., favoring a referendum on the subject of declaring war; to the Committee on Foreign Affairs.

SENATE.

SATURDAY, February 17, 1917.

(Legislative day of Wednesday, February 14, 1917.)

The Senate reassembled at 10.30 o'clock a. m., on the expiration of the recess.

Mr. SMITH of South Carolina. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The point is well taken. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	Nelson	Smith, Ga.
Bryan	Husting	Norris	Smith, S. C.
Catron	Johnson, S. Dak.	Overman	Smoot
Chamberlain	Jones	Owen	Sterling
Clapp	Kenyon	Page	Stone
Culberson	Kern	Polindexter	Sutherland
Cummins	Kirby	Ransdell	Swanson
Curtis	La Follette	Reed	Tillman
Fall	Lea, Tenn.	Robinson	Vardaman
Fernald	Lodge	Saulsbury	Walsh
Gallinger	McCumber	Shafroth	Watson
Gronna	Martin, Va.	Sheppard	Works
Harding	Martine, N. J.	Sherman	
Hitchcock	Myers	Simmons	

Mr. CHAMBERLAIN. I was requested to state that the Senator from Florida [Mr. FLETCHER] and the Senator from Michigan [Mr. SMITH] are detained in the Committee on Commerce upon official business.

Mr. HUGHES. I wish to announce that the Senator from Kentucky [Mr. JAMES] is detained on official business.

The VICE PRESIDENT. Fifty-four Senators have answered to the roll call. There is a quorum present.

Mr. SHAFROTH obtained the floor.

Mr. STONE. Mr. President—

Mr. SHAFROTH. I yield to the Senator from Missouri.

DANISH WEST INDIA ISLANDS.

Mr. STONE. Mr. President, from the Committee on Foreign Relations I report back favorably Senate bill 8256. I have not accompanied it with a written report, but I desire to say that with the exception of one clause in the bill, being the last proviso of section 2, the committee was unanimous in ordering the bill to be reported favorably. The Senator from Mississippi [Mr. WILLIAMS] is opposed to the retention of that proviso. He will move to strike it out, and a vote will be had to take the sense of the Senate upon it.

Just a word more. Section 6 of the bill as presented provides that the President shall appoint a commission to examine into the general conditions in the Danish West India Islands and report. At the time the committee was formulating this bill we had very unsatisfactory information as to the general conditions in the islands. Since then the Secretary of Commerce has sent to us a very full and intelligent report covering the very ground intended to be covered by the proposed commission and I think it is sufficiently covered, so that section 6, when we take up the bill, will I think by the unanimous judgment of the committee be eliminated. I send the bill to the desk.

The VICE PRESIDENT. It will be read by title.

The SECRETARY. The Senator from Missouri [Mr. STONE] reports favorably from the Committee on Foreign Relations the bill (S. 8256) to provide a government for the West India Islands acquired by the United States from Denmark.

Mr. STONE. I wish to say that at the very first opportunity, possibly on Monday, if I can, I shall ask to have the bill taken up. It is very important that it should be passed, or else in a very short while we shall have a Territory with thirty thousand and odd people upon it without any government. I repeat, I shall endeavor to call up the bill at a very early day, so that it may be disposed of. I am sure it will take only a comparatively short time.

Mr. WILLIAMS. I do not know how long it will take to pass the bill, but there is a part of it to which somewhat strenuous objection will be made.

Mr. STONE. I stated that.

The VICE PRESIDENT. The bill will be placed on the calendar.

GOVERNMENT OF PORTO RICO.

Mr. OVERMAN. Mr. President, I ask that the unfinished business, Senate bill 8148, be laid before the Senate.

The VICE PRESIDENT. The unfinished business is before the Senate. The Senator from Colorado [Mr. SHAFROTH] has been recognized.

Mr. SHAFROTH. I ask the Senator from North Carolina to consent that the unfinished business may be temporarily laid aside so that the Senate may consider for a few minutes the Porto Rican bill. I will state that an amendment to meet the only difficulty which has been in the way of the passage of the bill has practically been agreed upon by both sides; in fact, it has actually been agreed upon. If the Senator from North Carolina will consent to temporarily lay aside the unfinished business, I think we shall get through with the Porto Rican bill in five minutes.

The VICE PRESIDENT. Does the Senator from North Carolina consent?

Mr. OVERMAN. Mr. President, I am assured by both sides that the Porto Rican bill will not take over 10 minutes in order to be disposed of, and I will consent that the unfinished business may be temporarily laid aside for 15 minutes, by unanimous consent.

Mr. SHAFROTH. I move, Mr. President—

The VICE PRESIDENT. A motion is not necessary. By unanimous consent the unfinished business is temporarily laid aside for 15 minutes for the purpose of considering what is known as the Porto Rican bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 9533) to provide a civil government for Porto Rico, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment offered by the Senator from North Dakota [Mr. GRONNA].

Mr. GRONNA. Mr. President, I realize that the Porto Rican bill is one of the measures which have been recommended for passage by the President of the United States, and I, as one Senator, certainly do not wish to be in the way of the passage of the measure. I therefore desire to withdraw my original amendment and to offer a substitute therefor, which I ask may now be read.

Mr. LODGE. Mr. President—

The VICE PRESIDENT. Does the Senator from Massachusetts consent to the request of the Senator from North Dakota?

Mr. LODGE. Mr. President, I should like, first, to have the substitute read, though I believe there is no objection to it.

The VICE PRESIDENT. The substitute proposed by the Senator from North Dakota for the amendment heretofore submitted by him will be stated.

The SECRETARY. In lieu of the amendment heretofore proposed by Mr. GRONNA, it is proposed, on page 5, after line 3, to insert:

That one year after the approval of this act and thereafter it shall be unlawful to import, manufacture, sell, or give away, or to expose for sale or gift, any intoxicating drink or drug: *Provided*, That the legislature may authorize and regulate importation, manufacture, and sale of said liquors and drugs for medical, sacramental, industrial, and scientific uses only. The penalty for violations of this provision with reference to intoxicants shall be a fine of not less than \$25 for the first offense, and for second and subsequent offenses a fine of not less than \$50 and imprisonment for not less than one month or more than one year: *And provided further*, That at any general election within five years after the approval of this act this provision may, upon petition of not less than 10 per cent of the qualified electors of Porto Rico, be submitted to a vote of the qualified electors of Porto Rico, and if a majority of all the qualified electors of Porto Rico voting upon such question shall vote to repeal this provision, it shall thereafter not be in force and effect; otherwise it shall be in full force and effect.

Mr. LODGE. I withdraw my objection. The amendment is acceptable to me.

Mr. JONES. Mr. President, I desire to ask the Senator from North Dakota a question. As I have heard the amendment read, it says that at any such general election within five years after the passage of this act the question shall be submitted.

Mr. GRONNA. Yes; that at any general election within five years this provision may be submitted to a vote of the people of Porto Rico, and if a majority of the qualified electors shall vote to repeal this provision, of course it will not be in force or effect.

Mr. JONES. When is the first general election to be held after the passage of this act?

Mr. GRONNA. I do not know. This provision will go into force and effect, and if it is not to remain the law will have to be repealed by the people of Porto Rico.

Mr. JONES. I understand that; but I wondered when they would have the opportunity to have the question submitted—within six months or a year?

Mr. LODGE. I think within a year there will be a general election.

Mr. JONES. There will be a general election within a year, so that the matter may be submitted within a year.

Mr. LODGE. Within a year; yes. I think there will be a general election on the 17th of July.

Mr. JONES. The Senator thinks possibly on the 17th of July of this year?

Mr. LODGE. Yes; if 10 per cent of the qualified electors petition for it.

Mr. JONES. It will not be difficult for them to get 10 per cent; but if it is not repealed within five years, then there is no provision for submitting it after that?

Mr. LODGE. No.

Mr. GRONNA. It can not be submitted to a vote of the people, I will say to the Senator from Washington, after the five-year period has expired. I would have much preferred to have had my amendment adopted in its original form; but I understand it would perhaps defeat the Porto Rican bill, and I do not wish to do that. The Congress of the United States has put prohibition into the Porto Rico bill. If the people of Porto Rico do not want it, they can repeal it; and they have five years' time in which to take that action.

Mr. NORRIS. Mr. President, may I ask the Senator from North Dakota a question?

Mr. GRONNA. Certainly.

Mr. NORRIS. I have not been able to attend the night sessions when this bill has been under consideration, and I therefore may be asking a question concerning a matter that has been properly looked after in the consideration of the bill; but, as I caught the reading of the amendment, the question of prohibition may be submitted at any time within five years to the qualified electors of Porto Rico. Is that correct?

Mr. GRONNA. No; not at any time, but at any general election.

Mr. NORRIS. What I want to ask the Senator is, What has been done in regard to fixing the qualifications of the voters? I understood that this bill originally provided for a property qualification.

Mr. LODGE. That has been eliminated.

Mr. NORRIS. Is there any property qualification now?

Mr. GRONNA. No; I understand not.

Mr. NORRIS. The property qualification has been eliminated?

Mr. LODGE. So I understand.

Mr. GRONNA. That is my understanding.

Mr. LODGE. I understood that all those provisions were eliminated.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMOOT. Mr. President, for information, I desire to ask a question along the line of that asked by the Senator from Nebraska. I understand that the property qualification affecting the senators and representatives is out of the bill, but that the one affecting the voters is not out of the bill. That is as I understand it. I ask if that is not the case, and if the amendments agreed to do not apply only to the senators and representatives?

Mr. NORRIS. Mr. President, there is so much confusion in the Chamber that I am unable even to hear the Senator from Utah. I wish we might have order.

The VICE PRESIDENT rapped for order.

Mr. NORRIS. I should like to have that question answered, if there is any doubt about it, by some one who knows, or by the reading of the bill itself.

Mr. SMOOT. Mr. President, I want to ask the Senator having the bill in charge if I understand just what has happened to the bill in reference to the property qualification. As I have my bill marked, the property qualification affecting the senators and representatives has been eliminated, but the property qualification affecting the general voters has not been. I will ask the Senator having the bill in charge if that is correct?

Mr. SHAFROTH. I will state to the Senator that there was a substitute for that section which is put in the alternative, giving the right to vote to all those who have voted, consisting of about 250,000 citizens, and also all those who can read and write, and also all those who pay a property tax of \$3 per year whether they can read or write or not. That is the way it was framed, and I would rather for it to be that way.

Mr. SMOOT. I should like to have the amendment read just as it has been agreed to in the Senate. Then we will know.

The VICE PRESIDENT. The Secretary will read the section.

The SECRETARY. Section 35, as agreed to, is as follows:

That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters for all offices elected by the people shall have the qualifications prescribed by the Legislature of Porto Rico and be comprised within one of the following classes:

(a) Those who at the election of 1917 were legal voters and exercised the right of suffrage.

(b) Those who are able to read and write either Spanish or English.

(c) Those who are bona fide taxpayers in their own names in an amount of not less than \$3 per annum: *Provided*, That at all elections subsequent to the first election herein provided for no one shall be entitled or permitted to register or vote who is not at the time of registration or election a bona fide citizen of the United States.

Mr. NORRIS. Mr. President, as I understand the reading of that provision, it gives to the Legislature of Porto Rico—with the single exception that, whatever law they make, those entitled to vote must be citizens of the United States—the power to fix the qualifications of voters in accordance with one of the three different sections, (a), (b), and (c). As I understand the reading of it, they could provide that no one shall be entitled to vote except he was qualified under subsection (c), which is solely and simply a property qualification. In other words, it would give to the Legislature of Porto Rico power to exclude everybody from voting except those who possessed the requisite amount of property. They could exclude entirely those who were qualified by education. They could exclude absolutely every person who was not the owner of sufficient property to qualify him under title (c). I have not read it before, and I get my idea just from the reading by the Secretary; but as I understand that, it gives to the legislature the right to fix absolutely the qualifications. They can, it is true, provide that nobody shall vote unless he has the educational qualification provided in subsection (b), I believe. They can also provide that he must have the qualifications provided in subsection (a). It is within their power to permit voting to be done by persons having the qualifications prescribed by any one or all of these sections.

Mr. SHAFROTH. What does the Senator suggest there?

Mr. NORRIS. I do not believe that we ought to give to the Legislature of Porto Rico the right to say that no one shall vote unless he is possessed of the requisite amount of property named in the statute and pays that much tax every year.

Mr. SHAFROTH. Is the Senator willing to let it go if that is eliminated?

Mr. NORRIS. As I read it, it seems to me that that is the most objectionable part of it. I have not any objection to an educational test.

Mr. SHAFROTH. I think an educational test is good.

Mr. NORRIS. So do I.

Mr. SHAFROTH. It is in the interest of education.

Mr. NORRIS. But this legislature can absolutely abolish all tests of an educational nature under this law. They may say in so many words that no one shall be a voter in Porto Rico unless he possesses the requisite amount of property, regardless of education and regardless of everything else.

Mr. SHAFROTH. Will the Senator be satisfied if we strike out the property qualification?

Mr. NORRIS. I think that would improve it.

Mr. SMITH of Georgia. I do not think the Senator in charge of the bill ought to make an arrangement just with one Senator. There are a number of Senators who are opposed to any modification, and we would like to come to a vote upon it.

Mr. NORRIS. I concede that the position taken by the Senator from Georgia is a logical one. I am only taking the position as one Senator. I can not expect to have it modified just to suit me. I am not asking such a thing. But I do not believe I would be willing to vote for a bill that would give to the legislature the right to take away the right of suffrage from everybody in the island except those who paid a certain amount of tax. I do not believe that is a good qualification, and it can be made the only one.

Mr. HUGHES. I should like to have the amendment read again.

Mr. NORRIS. I will be glad to have it read. I have heard it read but once.

Mr. SHAFROTH. I will read the amendment as it was agreed to in Committee of the Whole:

SEC. 35. That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters for all offices elected by the people shall have the qualifications prescribed by the Legislature of Porto Rico and be comprised within one of the following classes:

(a) Those who at the election of 1917 were legal voters and exercised the right of suffrage.

(b) Those who are able to read and write either Spanish or English.

(c) Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum: *Provided*, That at all elections subsequent to the first election herein provided for no one shall be entitled or permitted to register or vote who is not at the time of registration or election a bona fide citizen of the United States.

Mr. President, I say that the Porto Rican people themselves have been studying that question thoroughly, and it is their amendment that has been brought up here. There are representatives in this Capitol now who represent the various political parties down there, and they have agreed on this amendment. I think the amendment ought to remain in the bill, but in order to get the bill through I am willing to concede a great deal.

Mr. NORRIS. Let me say to the Senator—

Mr. FALL. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from New Mexico will state it.

Mr. FALL. Do I understand that this is the bill of the Senator from Colorado we are now discussing or is it the committee bill or the House bill or some other bill providing a government for Porto Rico? I am a member of the committee, and I should like to be informed on the subject, seriously.

Mr. SHAFROTH. What is the inquiry of the Senator?

The VICE PRESIDENT. It was made to the Chair, and the Chair does not know.

Mr. NORRIS. I should like to discuss the amendment then just a little bit. I have now placed in my hands a copy of the amendment. As I read it, I do not believe there can be any doubt but that the Legislature of Porto Rico will be able to fix the qualifications of the electors in that island as they see fit, provided they come within the limits of this particular part of the law. They can change it from time to time as they desire. They may have a qualification one year which will be entirely of an educational nature, and the next year they can fix it entirely upon the ownership of property.

Mr. STERLING. Mr. President—

Mr. NORRIS. I hope the Senator will not interrupt me for just a moment. The next year they can put it in another class, and that class consists of those people who at the election of 1917 were legal voters. The law says they "shall have the qualifications prescribed by the Legislature of Porto Rico and be comprised within one of the following classes." Let us assume that the legislature provides that they shall be comprised entirely within class (a), what will that mean? Class (a) consists of "those who at the election of 1917 were legal voters and exercised the right of suffrage." That means that nobody else can vote except those who were entitled to vote in 1917 and who did vote in 1917. Let us see how that will work out. The next year the qualifications, let us assume, were unchanged. A part of these people die; a number of them may have passed

away. Then those who were entitled to vote are less in number. The next year many more die, and in the course of time there are only one or two of them left, and they are the only qualified voters in Porto Rico. Eventually there will be no qualified voters, because after a while they must all die, unless they are different from all the people I am acquainted with.

So if the legislature wanted to confine the voting population of that island to a select few and would provide that they all shall be in class (a), as we have designated them, the electorate would grow less and less, until the island would be controlled entirely by a few people—those who had the qualification to vote because they exercised the right to vote in 1917. Do we want to do that? Are we going to give to the legislature that power? Are we going to say that they shall have the power to provide that no man shall vote in Porto Rico except he has a qualification in the holding of property and provided that he pays taxes every year? It seems to me that we ought to fix more definitely the qualifications of voters, and we ought to do it here; we ought to do it in this proposed law. I think there are two of those three provisions that are dangerous.

Mr. SHAFROTH. Will the Senator suggest an amendment?

Mr. NORRIS. This is the first time that it has been called to my attention, I will say to the Senator, and at least instead of giving them power to confine it to one of those classes, if we are going to have all those qualification in we ought to say that any one of those would be a sufficient qualification, and that they would not be given the power to take it away. We have given the power to take it away.

Mr. SHAFROTH. Let the Senator suggest an amendment.

Mr. HUGHES. If the Senator would strike out the words "one of," I think he would reach the object he is trying to attain.

Mr. FALL. Mr. President, striking out one or two words I do not think will reach the objection of the Senator at all. The proposition is simply this: Are we willing to leave it to the Legislature of Porto Rico to fix the qualifications of voters at subsequent elections after the first election, subject only to the restriction that they shall be citizens of the United States? That is as the committee bill stands to-day. The amendment adopted here, as I undertook to point out the other night to the Senator from New Jersey, was not reaching what he intended to reach. There is no question about the fact that the Senator from Nebraska is absolutely right. As the amendment stands to-day, the Legislature of Porto Rico can take either of the two first classes and provide a property qualification within those classes. There is nothing in the bill to prohibit them from so doing.

But I wish to point out to the Senate that the Senate to-day is vesting, under the Senate amendment, sovereign power in the Legislature of Porto Rico, subject only to the restrictions that their laws may be affirmatively disapproved by Congress, the same power which is vested in any State legislature under the constitution of that State; and in some respects the organic act which we are prescribing contains fewer limitations upon the legislative power of Porto Rico than do the majority of the State constitutions on the legislative power in the State.

I do not wonder that the chairman of the committee, if I may be allowed to offer a suggestion, is willing to accept anything anyone offers in the nature of an objection when he does not even understand what the objections are.

Mr. SHAFROTH. Mr. President, I want to say that we have had a great deal of trouble with this bill. We have in it a veto power on the part of Congress at any time. If the Porto Rican Legislature does not do what is right, we have the right to repeal their action. I want to get the bill into conference. I have been laboring for eight months to get it into conference.

Mr. FALL. I understand that; but I for one feel that there are certain obligations upon me as a Senator in this body, and, with due deference to the chairman of the committee and his exceeding anxiety to get the bill into conference, I propose that we shall legislate here and not in conference. I am going to undertake, so long as I remain in this body, to voice my objection to bills here in the open and not leave it to some secret session of a conference committee to legislate as to the constitutional rights of this body that under the Constitution is to legislate. I am not willing to leave it to two or three conferees. I think we are able to do it, that we are intelligent enough to listen to objections which may be urged or suggestions that may be made, so that Senators may understand something of the conditions existing in Porto Rico. Is this body not intelligent enough to say what should be done and what we are willing to do with reference to self-government in Porto Rico?

Mr. NORRIS. Will the Senator permit a suggestion. I wish to call attention to another thing in this amendment. It is not in regard to the qualifications of voters, but it says:

Thereafter voters for all offices elected by the people.

We have provided in this bill for the possibility of a referendum on the liquor question. Why should the qualification of the voters for office to be elected by the people be different from what the qualifications might be on a referendum of that kind? If that language remains, there would be one qualification for officers and another and a different qualification, possibly, for a referendum like that which we have already provided for in the bill.

Mr. FALL. So far as I am concerned, Mr. President, I can see no reason for a different rule whatsoever. Why a different rule has been adopted as the matter stands now I can not answer. Yet it has been suggested that it may be fixed in conference. Mr. President, we might just as well, it seems to me, understand that we are dealing with a condition which very few of us do understand. We are providing here the utmost measure of self-government for the people of Porto Rico. In the first place, those people have two aspirations. Divided very largely in two parties, they have had practical assurance from leaders of sentiment in the United States that they would never achieve either of their aspirations—one that it should become an independent republic and the other that it should get statehood. They have been told by the leaders of both parties, by the leaders of the sentiment as it is reported here in the United States, that they would neither become independent on the one hand, nor be allowed to enter the system of statehood upon the other.

Necessarily they differ when they come before a committee. They do not know what qualifications for voters they want, possibly, because it is possible the Republican Party, upon the one hand, has one ultimate object in view; the Union Party, upon the other, has confessedly another object in view; and the two attempting to achieve different ends have different ideas as to what should be embodied in a bill vesting in Porto Rico the right to self-government. I am frank to say that I think very few Members of the Senate understand what they are attempting to legislate about at all.

As to the matter now in issue raised by the Senator, if the Senator desires to preclude the Legislature of Porto Rico from putting additional qualifications upon either of the two first classes of voters provided for, then all he has to do, if the qualifications suit him and only citizens of the United States shall vote, if he is satisfied with this language, then his amendment should simply be to strike out the provision vesting in the Porto Rican Legislature the right to fix the qualifications of voters. So far as I am concerned, I am ready to give it to them.

Mr. MARTINE of New Jersey. I desire to offer as a substitute for section 35:

Sec. 35. That the qualified electors shall be all males who are 21 years of age and over and who are citizens of the United States.

Mr. President, to my mind the milk in the coconut in this whole situation is the fact that the great franchises in that island and sugar plantations are owned by a clique of wealthy men in the United States, in England, and in Scotland, and it is their purpose and desire to control the elections in the island. Qualified with the electorate they are practically in possession of the island. I can not from my standpoint see how we can adopt any feature of the conditions a, b, c proposed. I offer my amendment as a substitute.

The VICE PRESIDENT. Of course the amendment is not now in order.

Mr. MARTINE of New Jersey. I offer it to be taken up when it may be in order.

The VICE PRESIDENT. It will never be in order unless the vote whereby the amendment was adopted by the Senate has been reconsidered.

Mr. MARTINE of New Jersey. Then I move to reconsider it.

Mr. SHAFROTH. I ask that it be taken up in the Senate. I want to get the bill as far along as I can. I do not think there are any other objections to the bill, and let us get the bill in the Senate. Then if the Senator desires to propose his amendment, all right.

Mr. MARTINE of New Jersey. All right; I will withhold it until the bill is in the Senate.

Mr. SMOOT. The Senator might just as well ask for a reconsideration.

Mr. MARTINE of New Jersey. I will ask for a reconsideration.

The VICE PRESIDENT. The question is on reconsidering the vote whereby the amendment was adopted.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The Senator from New Jersey offers an amendment as a substitute for section 35, which will be stated.

The SECRETARY. In lieu of section 35 insert:

Sec. 35. That the qualified electors shall be all males who are 21 years of age and over and who are citizens of the United States.

The VICE PRESIDENT. The question is on the amendment.

Mr. SMITH of Georgia. Mr. President, I think it would be a great mistake to put upon those islands a government of this character. I would be utterly opposed to giving them any government on such a basis. Who are the people who live there? How much ignorance is there? How much lack of capacity to vote? How much utter lack of knowledge of the responsibility of suffrage? You do not propose to allow the legislature to put any limitation on suffrage. You abolish the wise limitations provided by the committee. The committee's limitation is capacity to read and write. Anyone who can read and write in the Spanish or English language can vote.

Mr. WILLIAMS. And anyone who can not can learn in six months.

Mr. SMITH of Georgia. Anyone who pays taxes to the amount of \$3, if he can not read and write, is allowed to register.

Mr. NORRIS. Will the Senator yield there?

Mr. SMITH of Georgia. Yes.

Mr. NORRIS. Does not the Senator believe that the legislature could take away the right of anyone to vote, even though he could read and write under this amendment that has been considered and agreed to?

Mr. SMITH of Georgia. I do not understand the Senator.

Mr. NORRIS. It says that anyone who can read and write is allowed to be a voter. That does not follow unless the legislature says so. The legislature can say that they shall not be voters, as I understand.

Mr. SMITH of Georgia. What I am addressing myself to is the proposition that every citizen of the United States shall have the right to vote who is 21 years of age, without reference to the capacity of the citizen to vote.

Mr. NORRIS. My question of course did not pertain to that. I think there is great force in the Senator's argument, but the Senator was stating that under the proposed law as the committee had brought it in, anyone who could read and write in the Spanish or in the English language would be a qualified voter. That does not necessarily follow, as I understand it; for the legislature, if they so desired, could provide that such persons could not vote. We have given them the power to take that right away.

Mr. SMITH of Georgia. Then the amendment should be to strike out the provision in the bill which gives the local legislature the right to withdraw suffrage under the limitations prescribed by Congress.

I am opposed to passing this bill unless some kind of limitation as to suffrage attaches to it or else we give the local legislature the right to attach some limitation as to suffrage. It is simply impossible to tell what will be done down there if every irresponsible man 21 years old has an equal voice in the control of the island. We know perfectly well that a large number, at least, of the inhabitants of the island are not prepared for suffrage. I would be willing to accept the proposition that a man who can read and write shall vote; I would be willing to accept the proposition that a man who pays a small amount of taxes, though he can not read and write, shall vote.

Mr. SMOOT. Mr. President, will the Senator yield to me?

Mr. SMITH of Georgia. Yes.

Mr. SMOOT. Would the Senator from Georgia be willing to accept an amendment to the amendment by striking out the words "prescribed by the Legislature of Porto Rico and be," so that the section would read:

That at the first election held pursuant to this act the qualified voters shall be those having the qualifications of voters under the present law; thereafter voters for all offices elected by the people shall have the qualifications comprised within one of the following classes.

Mr. SMITH of Georgia. I would be willing to accept that.

Mr. SMOOT. Then, with those words stricken out, the legislature could not change the qualifications at any time. The qualifications could only be changed by Congress.

Mr. SMITH of Georgia. I would accept that. I really would prefer to provide that no one should vote who could not read and write, and I would be perfectly willing to stop there. I am, however, willing to go one step further, and provide that anyone who pays taxes on a limited amount of property may vote, although he can not read and write, but there ought to be some restriction.

Mr. SMOOT. I was going to ask the Senator one question, following up the one which I first asked him. Would he be willing to modify those qualifications by striking out qualification (c), which provides:

Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

Mr. SMITH of Georgia. I would. I am not seeking to broaden the suffrage; I am seeking to limit it. I think it is essential to good government in that island that there should be

a limitation of suffrage, and a limitation that requires a capacity to read and write is not a severe restriction.

Mr. MARTINE of New Jersey. Mr. President—

Mr. NORRIS. With the permission of the Senator from New Jersey, I want to offer two or three amendments to the substitute. I should like the attention of the Senator from Georgia, the Senator from New Jersey, and the Senator from Colorado.

In the first place, I think we ought to strike out these words, commencing in line 3 and ending in line 4, "for all offices elected by the people," so that we shall not have a different qualification for the election of officers than we would have for voting for the referendum, as we provide in the bill.

Mr. SMITH of Georgia. I would do that.

Mr. NORRIS. Before the word "qualifications," at the end of line 4, I move to insert the word "following," so that it will read "the following qualifications." Then I move to strike out the words "prescribed by the Legislature of Porto Rico and be comprised within one of the following classes," so that it will read—

The following qualifications:

(a) Those who at the election of 1917 were legal voters and exercised the right of suffrage—

Then after the word "suffrage" insert the word "or," so as to read—

or (b) those who are able to read and write either Spanish or English.

It strikes me it would be a very good idea to stop there, and not put the other qualification in; but if you put the other one in add the word "or," so that a man would be entitled to vote if he had any one of these different qualifications; and the qualification to vote for an officer would be the same as the qualification to vote at a referendum like the one we have submitted.

Mr. SHAFROTH. I would just as soon have the word "or" in.

Mr. NORRIS. To begin with, to get somewhere, Mr. President, I move to strike out the words "for all offices elected by the people."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nebraska to the amendment.

The amendment to the amendment was agreed to.

Mr. NORRIS. Now, I move to amend by inserting after the word "have," in line 4, the words "one of."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Nebraska to the amendment.

Mr. SHAFROTH. I ask that the amendment be again stated.

Mr. NORRIS. I move after the word "have," in line 4, to insert the words "one of."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Nebraska to the amendment.

The amendment to the amendment was agreed to.

Mr. NORRIS. Now, after the word "the," in the same line, I move to insert what I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Nebraska will be stated.

The SECRETARY. In line 4, after the word "the," and before the word "qualifications," it is proposed to insert the word "following."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Nebraska to the amendment.

The amendment to the amendment was agreed to.

Mr. NORRIS. I also offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Nebraska to the amendment will be stated.

The SECRETARY. After the word "qualification," in line 4, it is proposed to strike out the words "prescribed by the Legislature of Porto Rico and be comprised within one of the following classes."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Nebraska to the amendment.

The amendment to the amendment was agreed to.

Mr. NORRIS. I now have another amendment to submit, but before doing so I want to say that I am not myself satisfied in regard to it; but I offer it in order to get the question before the Senate and that we may make some headway. It seems to me that we ought not to have a property qualification for voters.

Mr. FALL. Mr. President—

Mr. NORRIS. I yield to the Senator from New Mexico.

Mr. FALL. I think if the Senator will leave that qualification in, he will simply provide another class of voters. It does not limit either of the first two classes; and I think it is very

properly left in. I think the Senator from Nebraska will agree with me that this provides a third class; in other words, that if a man is not now a resident, although he may not be a legal voter at this election, although, second, he may not be able to either read or write either language, yet if he is a taxpayer he may still be a voter. I do not think it limits the qualifications in either of the other respects, but it adds an additional class of voters.

Mr. CLAPP. Will the Senator from Nebraska yield for a suggestion?

Mr. NORRIS. Before I yield the floor I want to add another amendment, which I think is necessary. I want to add after the word "voters," in line 3, the words "shall be 21 years of age and," so that it will read:

Thereafter voters shall be 21 years of age and shall have one of the following qualifications.

I take it that if we do not fix an age qualification here, we might be in great danger.

Mr. MARTINE of New Jersey. Twenty-one years of age is the time fixed in my substitute. That is the amendment which I propose.

Mr. NORRIS. Mr. President, I do not care to discuss the amendment.

Mr. SMITH of Georgia. Has the Senator included the provision that they shall be citizens of the United States, or would he add that in connection with the provision as to being 21 years of age?

Mr. NORRIS. That is a good suggestion. That they shall be 21 years of age—

Mr. SMITH of Georgia. And citizens of the United States.

Mr. NORRIS. And citizens of the United States.

Mr. SMITH of Georgia. And "possessing one of the following qualifications."

Mr. NORRIS. With the word "and" following, so that the amendment would be after the word "voters," in line 3, to insert the words "shall be citizens of the United States and 21 years of age, and."

Mr. MARTINE of New Jersey. Will the Senator yield for a moment?

Mr. NORRIS. I yield to the Senator.

Mr. MARTINE of New Jersey. That would include as well the literacy test. I think it would be futile to put that in the bill. We know of recent knowledge from the action of our President in connection with another matter that he would probably veto the bill with that in it.

Mr. NORRIS. Let me say to the Senator the provision will be still open to amendment when the amendments I have suggested are agreed to, and a motion can be made to strike out any of the qualifications. The Senator will be at liberty to make such a motion.

Mr. SHAFROTH. I will suggest to the Senator—

Mr. NORRIS. But I think it is conceded that voters in Porto Rico ought to be citizens of the United States and ought to be 21 years of age, and that is all the last suggestion proposes to incorporate in the provision.

Mr. MARTINE of New Jersey. My substitute comprehended all that.

Mr. NORRIS. I know it did.

Mr. SHAFROTH. I will state that subdivision (a) provides that all those who at the election of 1917 were legal voters and exercised the right to vote can do so without regard to the educational qualifications.

Mr. MARTINE of New Jersey. I can not see the purpose of putting that in. I think my substitute would accomplish the whole purpose.

Mr. NORRIS. Let me ask the Senator from New Jersey will he not consent to the amendment that I have suggested, as that does not take away from him or any other Senator the right to make a motion to strike out further down?

Mr. MARTINE of New Jersey. My substitute is before the Senate.

Mr. NORRIS. I think there can not be any objection to providing that they must be citizens of the United States and must be 21 years of age. If that amendment is agreed to, or, even if it is disagreed to, the provision will still be open to further amendment, and the Senator can move to strike out the literacy test if he wants to do so.

Mr. MARTINE of New Jersey. I want to strike out not only the literacy test, but I want to strike out each one of the qualifications mentioned.

Mr. SMITH of Georgia. Has the amendment of the Senator from Nebraska providing an age qualification been agreed to?

The VICE PRESIDENT. The question is on agreeing to that amendment to the amendment.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The Secretary will state the section as it now reads.

The SECRETARY. As amended section 35 now reads:

SEC. 35. That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters shall be citizens of the United States and 21 years of age and shall have one of the following qualifications—

Mr. SHERMAN. Mr. President—

Mr. HUGHES. I desire to make a suggestion to the Senator from Nebraska.

Mr. CLAPP. I should like to hear the amendment stated as agreed to.

The VICE PRESIDENT. There certainly can be no objection to at least stating the amendment as it now stands without interruption.

Mr. CLAPP. I will ask that the Secretary read the amendment as it now stands.

The VICE PRESIDENT. The Secretary will please read the amendment as it now stands in order that we may get somewhere if we can.

Mr. HUGHES. The Secretary did read it, did he not?

Mr. SMITH of Georgia. No; he did not read the qualifications. He only read down to that point.

The SECRETARY. As it now stands, section 35 reads as follows:

SEC. 35. That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters shall be citizens of the United States and 21 years of age and shall have one of the following qualifications:

(a) Those who at the election of 1917 were legal voters and exercised the right of suffrage.

(b) Those who are able to read and write either Spanish or English.

(c) Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

Mr. CLAPP. I rise to a parliamentary inquiry. I submit that the Senator from Georgia has not submitted to the Senate as yet that portion of the amendment which comprises a property qualification.

Mr. NORRIS. No.

Mr. CLAPP. Yet it appears here as part of the amendment as perfected by the Senator from Nebraska.

Mr. NORRIS. It is still a part of the provision, but it is subject to a motion to strike it out. That motion has not yet been made.

Mr. SMOOT. Mr. President, may I ask the Senator a question?

Mr. NORRIS. Certainly.

Mr. SMOOT. Section 35 as amended on motion of the Senator provides three qualifications, and reads as follows:

That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter voters shall have one of the following qualifications—

Mr. NORRIS. The Senator did not read it all. He left out the words "shall be citizens of the United States and 21 years of age."

Mr. SMOOT. Yes; that provision was just submitted by the Senator and adopted.

Mr. SMITH of Georgia. And possessed of "one of the following qualifications."

Mr. SMOOT. I desire to ask the Senator what is there in this bill that would prevent the Legislature of Porto Rico from imposing 40 other qualifications, if they desire to do so?

Mr. NORRIS. Unless we give them authority so to do, the legislature would not have any right to impose any other qualifications. If we define what the qualifications of voters shall be, the Legislature of Porto Rico can not repeal that act of Congress.

Mr. SMOOT. It will not be able to repeal the qualifications provided for by act of Congress, but will it not have the right to provide additional qualifications?

Mr. NORRIS. I think not. We have stricken out the words "prescribed by the Legislature of Porto Rico," and so forth.

Mr. SMOOT. I believe that under the provisions of this bill the legislature will have that right.

Mr. POMERENE. Mr. President, I should like to ask the Senator in charge of the bill what are the present qualifications of voters?

Mr. SHAFROTH. The present qualifications of voters are that they shall be 21 years of age and shall have resided one year in Porto Rico.

Mr. MARTINE of New Jersey. Are there no other conditions?

Mr. SHAFROTH. No; I think not. This bill proposes to make them citizens of the United States, but they are now citizens of Porto Rico, and they have been voting down there

to the extent of some 250,000, which was approximately the vote at the last election. There was a very large vote.

Mr. MARTINE of New Jersey. Then, I should like to inquire, if the present conditions have proven satisfactory and good order has been maintained at elections, why not continue the present arrangement? Why put in these (a), (b), (c), propositions?

Mr. SHAFROTH. In the act providing a government for the Philippines there is an educational qualification. Nobody in the Philippine Islands can vote unless he can read or write. These bills are supposed to relate somewhat to each other; and by reason of that there was first provided simply an educational qualification or a property qualification. There was objection to that in the committee, and we at last agreed that the people of Porto Rico should have 10 years to prepare in which to qualify themselves educationally; but on the floor of the Senate several nights ago, when we had the matter up for consideration, it was enlarged, under the amendment offered by the Senator from Washington [Mr. POINDEXTER], to include everybody who has heretofore voted. That is the condition; and it seems to me that that is a good amendment; but to the suggestions made by the Senator from Nebraska [Mr. NORRIS] I do not see any serious objection.

Mr. SMOOT. Mr. President, there is one other question which I desire to ask the Senator from Nebraska in relation to the subject matter about which I was just speaking. This section, if adopted, will provide that the voters of Porto Rico shall have certain qualifications. There is nothing in the bill that says that the legislature thereafter may not provide additional qualifications. There is nothing to prevent the Legislature of Porto Rico from imposing any qualifications other than those provided for in this bill.

Mr. WORKS. Mr. President, I hesitate to add to the complicated condition of affairs here, but I should like to know whether it is the intention of this bill to fix the qualification of voters for the first election and then change the qualifications for all other elections? That is the effect of this amendment as it now stands.

Mr. SHAFROTH. I will state to the Senator that that complication arises from the fact that at the present time only Porto Ricans are permitted to vote. Some others may exercise that privilege, but ninety-nine one-hundredths of the voters are Porto Ricans. They are not now citizens of the United States, and if we were to prescribe that only citizens of the United States were to vote at the first election there would not be anybody who could vote. Consequently, we are obliged to make a distinction between the first election and the subsequent elections. So we prescribe that all those who voted in the last general election shall be entitled to vote at the election in 1917. Then we prescribe that thereafter those shall be entitled to vote who are citizens of the United States and who were eligible to vote and who voted in 1917 and possess one of the qualifications mentioned.

Mr. WORKS. Then, the effect of it is to allow voters who would not be qualified primarily under the provisions of this act to fix the conditions in the beginning, by the provisions that are contained in this amendment, so that a large proportion of them evidently will be disfranchised.

Mr. SHAFROTH. No; very few of them.

Mr. WORKS. That is the effect of it.

Mr. SHAFROTH. Very few of them will be disfranchised, if any, because on account of the qualifications including those who voted at the last general election, they will evidently vote again, and consequently they will become permanent voters.

Mr. WORKS. But, Mr. President, under the provisions of this amendment they would not be entitled to vote unless they had one or the other of these three qualifications.

Mr. SMITH of Georgia. No.

Mr. SHAFROTH. But one of the very qualifications is, "those who at the election of 1917 were legal voters and exercised the right of suffrage"; so that takes in the great mass of them.

Mr. SMITH of Georgia. You see, Mr. President, that carries as a permanent qualification for suffrage the right to vote to those who vote in this coming election.

Mr. WORKS. Mr. President, that is precisely where the Senator is mistaken. The provision is that thereafter they shall have certain and fixed qualifications, and that would exclude those who voted at the last election.

Mr. SMITH of Georgia. But the Senator from California—

Mr. NORRIS. If the Senator from California will permit me—

The VICE PRESIDENT rapped for order, and said: The Chair is entirely willing that Senators shall proceed, but only one at a time.

Mr. SMITH of Georgia. Have I the floor, Mr. President?
Mr. NORRIS. I did not know the Senator was trying to proceed. Certainly, so far as I am concerned, I will permit the Senator to proceed.

Mr. SMITH of Georgia. Just one moment. The Senator from California is mistaken. That language is perfectly clear as the Senator from Nebraska has perfected it. It provides that after this first election a voter must have one of the three following qualifications. Now, what are those qualifications?

First, those who at the election of 1917 were legal voters and exercised the right of suffrage. If he falls within that class, he has the qualification.

Mr. FALL. Mr. President, will the Senator yield?

Mr. SMITH of Georgia. Yes.

Mr. FALL. He has the qualification, provided in the meantime he has become a citizen of the United States.

Mr. SMITH of Georgia. That we add, of course. We do not propose in future, after this first election, to let anybody vote who is not a citizen of the United States and 21 years old. I think everybody agrees to that. But, being a citizen of the United States and being 21 years of age, he must have one of three additional qualifications, as it reads now. What is the first one of those? He must have been qualified to vote and have exercised the privilege at the election in 1917.

Mr. STONE. I will ask the Senator if it would not be well in that first qualification to add, right at the beginning, "being a citizen of the United States"?

Mr. SMITH of Georgia. That is not necessary, because we preface the three with the statement, first, that he must be a citizen of the United States, he must be 21 years of age, and he must possess one of the three following additional qualifications. Being a citizen of the United States and being 21 years of age, he need have but one of the three following qualifications. What is the first qualification? Let me read it:

Those who at the election of 1917 were legal voters and exercised the right of suffrage.

Mr. WORKS. Well, Mr. President, after the explanation of the Senator from Georgia, I admit that it is not quite as bad as I thought it was.

Mr. SMITH of Georgia. Now, we carry as a permanent right, if he becomes a citizen of the United States and is 21 years of age, the privilege of suffrage to the man who exercises the privilege in this coming election. Second, outside of those who vote in this coming election, if they are citizens of the United States and 21 years of age, we say, "If you can read and write in Spanish or English, you can register and vote." Now, third, as it stands at present, we say, "Even if you do not vote in the coming election in 1917, even if you can not read and write in Spanish or in English, still if you are a property holder, a citizen of the United States, and 21 years of age, though your property only requires you to pay a tax of \$3 per year, you can register and vote."

Mr. MARTINE of New Jersey. Mr. President—

Mr. SMITH of Georgia. I do not care to be interrupted by the Senator from New Jersey.

Mr. MARTINE of New Jersey. Well, I do not desire to interrupt the Senator.

Mr. SMITH of Georgia. I will not let the Senator interrupt me, under the rules.

Mr. MARTINE of New Jersey. The Senator need not worry. I am not going to.

Mr. SMITH of Georgia. Mr. President, this third privilege is, I think, a very proper one; but if the amendment is stronger without it, let it go. I believe that a man in Porto Rico who is a taxpayer has a certain stability attached to him, is likely to be a permanent resident, is more likely to be domiciled in the island, than if he were a mere mover from place to place. I do not care particularly whether that remains or not. What I do insist upon, however, is that, besides those that we allow to vote who are now voters and who exercise the right in the election of 1917, we should maintain some restrictions, and I think the knowledge and capacity to read and write in English or in Spanish is not an unreasonable requirement for those whose names are to be added to the list of those who can now vote in the island.

Mr. MARTINE of New Jersey and Mr. NORRIS addressed the Chair.

The VICE PRESIDENT. The Senator from New Jersey.

Mr. MARTINE of New Jersey. Mr. President, the Senator from Georgia was very impatient with me. I was only trying to ask him a question that I thought might enlighten me.

It seems to me that it is utterly out of place to reason or to argue this literacy or educational test at this time. We have thrashed that over and over again. We have passed the bill

here including it, and the President vetoed it. We would have the same experience, in my judgment, again.

Mr. CLAPP. Mr. President, will the Senator pardon an interruption?

Mr. MARTINE of New Jersey. Certainly.

Mr. CLAPP. What I am going to say is not intended in any sense as a reflection upon the President. But the Congress has overruled the veto, and, of course, by the same token it would undoubtedly overrule it as to the government of an alien people by this Government.

Mr. MARTINE of New Jersey. I am conscious of that fact; but the fact still remains that my opinion is not changed.

Mr. POMERENE. Mr. President—

Mr. MARTINE of New Jersey. I want to say that almost every educational magazine in our country and the great metropolitan journals of our country with a remarkable unanimity have not sustained the action of our Congress on that particular point.

Mr. POMERENE. Mr. President—

Mr. MARTINE of New Jersey. I believe that it is unfortunate, and I believe it is utterly un-American, and certainly un-Democratic; and, for the life of me, I can not vote for it.

Mr. POMERENE. Mr. President, may I call the Senator's attention to a distinction which he seems to have overlooked? The literacy test only applied to immigrants entering the country.

Mr. MARTINE of New Jersey. Oh, yes.

Mr. POMERENE. This is defining the qualifications of one who shall exercise the right of franchise.

Mr. MARTINE of New Jersey. Yes. Well, if it had any pardon at all for those entering the country, it certainly has no pardon for those who have been born mayhap in the island and are citizens of the United States.

Then, the other qualifications which the Senator says he is not tenacious about—the \$3 tax. Now, a man must have something upon which to be taxed; so it is tantamount to a property qualification.

Mr. SHAFROTH. Does not the Senator recognize that that is not a limitation, but is an extension of the franchise?

Mr. MARTINE of New Jersey. Oh, well, all right; put it as you may. The fact is that if he has not either one of these other qualifications he has to have the tax qualification. Suppose he has neither of them. Now, I insist that the lack of property is a misfortune, and not necessarily a crime. A man should not be penalized because he is poor. I know there is a certain disposition to put on a property qualification and a literacy test, an educational test. Now, I want to say—

Mr. CLAPP. Mr. President, will the Senator pardon another interruption?

Mr. MARTINE of New Jersey. Certainly.

Mr. CLAPP. When we reach a vote on the Senator's amendment I propose to vote for it; but in the meantime, if the Senator will bear with me, it seems to me that we ought, if we can, and as far as we can, to perfect the pending amendment. If the Senator will yield, I should like to move to strike from the pending amendment the words "Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum." Then, if we were unable to substitute the Senator's amendment, we would at least, if my amendment prevails, have freed the pending amendment from what I regard as an undemocratic proposition—a property qualification.

Mr. MARTINE of New Jersey. I would be quite willing to vote with the Senator on that proposition, to strike it out.

Mr. CLAPP. Mr. President, if the Senator will pardon me at this time, and will yield for that purpose, I move to strike out of the pending amendment, paragraph (c):

Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

Mr. President, in making that motion, of course, I know it will be said that paragraph (c) enlarges the possibility of suffrage; but it enlarges a thousand times more the possibility of controlling the electorate of Porto Rico. If there should be an influence that seeks to control the electorate of Porto Rico, it will be very difficult for that influence to educate voters so that they can pass the educational test. It will be very easy to furnish a tax receipt of \$3 to those men whom they want to vote along the line of certain interests. While theoretically section (c) enlarges the right of suffrage, I repeat that it enlarges a thousandfold the opportunity of forces to control the electorate, if that condition be possible in the future government of Porto Rico.

I move to strike out subdivision (c).

Mr. MARTINE of New Jersey. Well—

Mr. STERLING. Mr. President, will the Senator yield for just a moment?

Mr. CLAPP. Yes; with pleasure.

Mr. MARTINE of New Jersey. I think I have the floor, but still—

Mr. STERLING. This does not provide that the voter, in order to be a qualified voter, shall have paid his tax.

Mr. CLAPP. No.

Mr. STERLING. He must be a taxpayer in the amount of \$3 per annum.

Mr. CLAPP. But, lacking the educational qualification, if he does show that he has paid \$3 per annum, then he is entitled to vote, so far as we give him the power to vote.

I want to remind the Senate that the Senator from Utah has raised a question here that is vital. We do not say in this amendment that the men who have these qualifications can vote. We simply say that they must, among other things, possess these qualifications. Clearly, if a man had been convicted of a felony the Legislature of Porto Rico could prohibit his voting, notwithstanding he had these qualifications.

Mr. SHAFROTH. Does not the Senator think the Porto Rican Legislature should have that power?

Mr. CLAPP. Unquestionably.

Mr. SHAFROTH. It is those people that are voting for the Porto Rican Legislature.

Mr. CLAPP. We were laughing down here the proposition of the Senator from Utah. I think we ought to take time enough to consider these things, and consider them on their merits.

Mr. President, I move to amend the pending amendment by striking out clause (c):

Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to strike out subdivision (c), on lines 12 and 13, as follows:

(c) Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

Mr. STERLING. Mr. President, just one word in regard to the proposed amendment of the Senator from Minnesota. Of course we have been used so long to a system which does not provide for a property qualification, and it is so inconsistent with our own ideas of democracy and democratic institutions, that we naturally rebel against any such idea. It occurs to me, however, that conditions must be altogether different in Porto Rico and among the people of Porto Rico than they are in the United States, and that there must be a very large class that would have no appreciation whatever of the right of suffrage. It seems to me that there ought to be here some slight property qualification to apply to those who can neither read nor write.

I can conceive of this as the situation—a great mass of people, many thousands of them, in Porto Rico who would hardly understand what was meant by the exercise of the right of suffrage and what it implies. I think we ought to proceed cautiously here in the matter of conferring suffrage upon these people, and there should be either a qualification requiring them to be able to read and write in English or in Spanish or a slight property qualification.

Mr. MARTINE of New Jersey. But, Mr. President, we have been educating these people, I think, for 10 or 12 or 15 years. Then, further than that, I want to say that I have presented here a petition, I think, of 12,000 names from Porto Rico rebelling at the propositions contained in this bill as being un-American and not up to the standard that we have proclaimed to the world as to what we stood for. I should regret very much to see either one of those qualifications left in the bill.

Mr. HUGHES. Mr. President, I want to call the Senator's attention to something that I think he has overlooked in this bill. The language that he has drawn does not seem to me to be applicable. It frequently happens, as we all know, when we attempt to amend legislation on the floor, that we use unhappy language. It seems to me that result has been achieved this morning.

On line 4 the language of the amendment deals with qualifications. First, it refers to certain qualifications. Then we go down and enumerate (a), (b), and (c), which are not qualifications, but which are people.

Mr. NORRIS. I did not hear the Senator.

Mr. HUGHES. I say, the language of the amendment deals with qualifications. We say they shall have the following qualifications: (a), (b), and (c). Well, (a), (b), and (c) do not deal with qualifications; they deal with people—"those," "those." So that, to say the least, the language is ungrammatical.

Also, the Senator from Utah suggested that we were granting no particular rights to these people, and a reading of the language seemed to bear out what he said. In order to get this

amendment perfected, so that we will have a proper choice between the substitute offered by the Senator from New Jersey and this amendment as perfected by the Senator from Nebraska, I would suggest that the language take this form: I would leave undisturbed the first clause, and, on line 3, after the semicolon, I would have it read as follows:

Thereafter, voters shall be—

(a) Those— and

(b) Those— and

(c) Those—.

Mr. NORRIS. If the Senator will permit me, I think it would carry out his idea if he would put the word "or" between those different clauses. If he did not, the voter would have to possess all three of the qualifications named in subdivisions (a), (b), and (c).

Mr. HUGHES. Yes; the Senator is correct about that. I wanted to call attention to the fact that the language that comes before the semicolon in the amendment is absolutely clear, and is lacking in the vagueness that characterizes the language that immediately follows the semicolon.

The language is as follows:

That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law.

That is absolutely clear and unmistakable.

Mr. NORRIS. That is not changed.

Mr. HUGHES. That is not changed. I would follow that form for the balance of the paragraph and say thereafter voters shall be—

(a) Those who at the election of 1917 were legal voters and exercised the right of suffrage; and

(b) Those who are able to read and write either Spanish or English; and

(c) Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum.

Mr. NORRIS. The Senator would not connect it with the conjunctive "and"? I call attention also that, in addition, they must be citizens of the United States and must be 21 years of age.

Mr. HUGHES. I have not intended to touch that part at all. I was only trying to perfect the three divisions.

Mr. NORRIS. After all, let me say to the Senator the pending amendment is the one offered by the Senator from Minnesota, and I would suggest that we take up this matter after that is disposed of.

Mr. HUGHES. I thought that had been acted on.

Mr. CLAPP. No.

Mr. NORRIS. I wish to say to the Senator from Minnesota I intend to vote for his amendment; yet I can see, I think, a great deal of weight in the argument made by those who are opposed to it. I feel as though I ought to vote with the Senator to strike it out, but it ought to be amended before the motion to strike out is voted on; and I intended to offer this amendment, but other things came in and I did not get an opportunity. Qualification (b) provides that they must be bona fide taxpayers in their own name in an amount of not less than \$3 per annum. I take it, it would not mean that they had necessarily paid the taxes. It seems to me if we make a property qualification at all, and I am not in favor of doing it, we ought to provide that they not only shall be taxpayers, but that they shall have actually paid the taxes that are due against them. I wanted to move to add the words "and have paid all such taxes." I am not able to offer that amendment now because, under the parliamentary situation we are in, it would be in the third degree; but if there is not any objection to that amendment, in order that we may perfect the particular part that the Senator from Minnesota seeks to strike out, I ask unanimous consent that I may be allowed to offer the amendment before the vote is taken on the Senator's motion to strike out.

Mr. CLAPP. As far as I am concerned, I would gladly accede to that.

Mr. NORRIS. The Senator can not do that.

Mr. CLAPP. I was going to say that I would be one to accept it by unanimous consent.

Mr. NORRIS. I can offer it if no one objects, and it can be done by unanimous consent, even though in the third degree, I take it.

The VICE PRESIDENT. It is not in the third degree. The pending motion is the motion of the Senator from Minnesota [Mr. CLAPP].

Mr. NORRIS. In line 13, I move to add "and have paid all such taxes."

Mr. SMOOT. Should not the words be "all such taxes that may be due"?

Mr. NORRIS. I have no objection. Let it read "all such taxes that are due."

The VICE PRESIDENT. If the motion of the Senator from Minnesota prevails, it goes out, and it does not need any amendment.

Mr. NORRIS. I understand; but it would make a different proposition in voting on the motion of the Senator from Minnesota to strike out. I only seek to apply the well-known rule that we ought to have an opportunity to perfect the language that is sought to be stricken out before we vote on striking it out. There may be Senators who would be in favor of striking it out under one condition and opposed to it if that language is in the bill, and I should like to see it amended as I have suggested.

Mr. STERLING. Mr. President, I should like to make a suggestion to the Senator from Nebraska in regard to the last proposed amendment in lines 12 and 13. The amendment, it seems to me, suggests the very question raised by the Senator from Minnesota a while ago, when he stated as the ground of objection to lines 12 and 13 that certain interests would pay the taxes of certain voters. If the right to vote depends upon the payment of the taxes, that very thing will happen. I think the amendment ought to stand as it is, and a person ought to be a qualified voter when he is a taxpayer without requiring that he should pay the taxes before he exercises the right of suffrage.

Mr. CLAPP. The Senator from South Dakota has emphasized the reason why I was so ready to accept the amendment proposed by the Senator from Nebraska. It would strengthen my argument, it would make it so plain and palpable that I wish it were in here. If it were in my power I would put it in before the motion to strike out was voted on.

Mr. STERLING. Let me ask the Senator from Minnesota—

Mr. NORRIS. The Senator from South Dakota does not object to my right to offer the amendment?

Mr. STERLING. Certainly not.

Mr. NORRIS. Then we will vote upon it.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to add after the words "per annum," in line 13, the words "and have paid all such taxes that are due," so as to read:

(c) Those who are bona fide taxpayers in their own name in an amount of not less than \$3 per annum and have paid all such taxes as are due.

Mr. SHERMAN. Mr. President, there has been rather a peculiar parliamentary position this morning on many amendments. Somebody gets the floor on an amendment, somebody else gets it upon an amendment or a motion or to interpolate a great variety of provisions while the floor is held. The amendment to the amendment stands by unanimous consent; nobody has been heard; it has been adopted; a Senator holding the floor occupies it to the exclusion of every other Senator; and so divers amendments have been added that nobody seems at present to have a very clear understanding of. I have tried to keep the run of affairs as best I could. The Chair has been helpless to enforce ordinary parliamentary procedure because the business has seemed by unanimous consent to take the other course.

This amendment that seeks to provide for the qualification for voters, I think, ought to go further than even the amendment to the amendment. The last amendment that is provided by the Senator from Nebraska with sundry additions made by a number of other Senators, the names of whom are too numerous to mention, to quote a sales-bill phrase, would be to still further limit the ability of the voter by requiring him to pay taxes due. Some objection is made that the candidate might pay the past due taxes to qualify the voters. That is a favorite procedure in some parts of our United States.

I do not know why in our insular possessions one of these embryo citizens should be denied the same right that citizens of continental United States are not denied. I know of parts of the country where candidates pay the poll tax in order to qualify a number of electors to exercise the privilege of an American citizen. I know other States—there might be something in the corrupt practices act not to permit that—where the delinquent voter borrows money, presumably to pay his taxes. He does not borrow from the candidate, he borrows it from the bank, and some friend of the candidate stands as security, and the voter by some unusual dereliction which is understood omits to obey the cashier's order when the note matures to take up the negotiable paper, and the friend of the candidate pays it, and the eternal triangle, as divorce suits have it, is complete—the candidate and the voter and the security on the note in the bank. That is a very well-known procedure.

I know of no reason why we ought to deny citizens of Porto Rico as much right as we have in our own country. Still if we

continue these inhibitions after a while we will be unable to pay the \$3-a-year tax for the voter.

I should like to inquire either from the chairman of the committee or anybody else who possesses the information whether a woman in Porto Rico under this act can be a Territorial Member of the Senate. I should like to inquire whether a woman under this act could be a legislator of the lower house in Porto Rico. I would like to inquire whether under the qualification of voters a woman in Porto Rico can not vote under this proposed law. I want that disposed of before I finally vote on the bill, or I shall vote against it, however beneficial the provisions may be.

I want to know why the amendment offered by the senior Senator from New Jersey ought not to be adopted. It seems to add the qualifications that, in addition to being citizens, they shall be male citizens. A woman is a citizen of the United States without any suffrage clause, constitutional or statutory. A woman in Porto Rico possesses the status of a citizen in the United States under the treaty by which we acquired that Territory. Any person who possesses civil rights is a citizen. Political rights are an entirely different matter. The right to vote is a distinctly added qualification to that of citizen of the United States.

I think the amendment offered by the Senator from New Jersey is a necessary amendment. I am not ready yet to extend the right of woman suffrage to Porto Rico when we do not have it in some 35 or 36 States of the United States. However advantageous it might be, however necessary to carry on the extension of the universal right of suffrage regardless of sex, I prefer that we confine our missionary efforts to the United States until at least we have enlarged the limits in the United States before we go to any of our insular possessions.

To go further on this line, it seems to me that unless we hedge very carefully the qualifications of a voter and of a member of the Territorial or insular legislature we will have an unwise act.

These islands, in common with many others in this part of the country and in Central and South America, were originally Spanish colonial possessions. In none of the colonial possessions of the Spanish Crown was there a qualification or the ability on the part of the subject to take any part in local self-government. They were governed by viceroys, by representatives of the Spanish Crown, by various names, and for many centuries there was none of the antecedent training that tends to make an American citizen.

Now, we undertake to apply our method of extending the right of suffrage of fixing qualifications to a Spanish Territory. Their traditions, their education, and their general knowledge that is necessary to make a Territorial government do not exist in Porto Rico. When we give the right to vote, I think we ought now to hedge it about with many qualifications as to age, as to sex, as to some interest in the Territorial government, such as a property qualification or the like. Such requirements are not permanent. Congress can amend at any time. I do not think we ought to extend woman suffrage to Porto Rico, and still, by the language of this bill, it will permit every woman of a given age, placed at above 21 years, to vote, unless there is some inhibition in the general act of 1900—I do not now recall—under which the government was first framed under an act of Congress after we acquired the islands under the treaty of Paris at the close of the Spanish-American War.

I do not think it would be a wise provision to permit this general right of suffrage. There are some States of the Union, Mr. President, in which a property qualification is one of the conditions under which male citizens can vote. There are some States of the Union where an educational test, the ability to read and correctly understand and interpret some section of the Constitution propounded to him by the election officials, is one of the requirements, or that he should pay taxes on a given amount of property, or some other qualification.

If that is true, it ought to be at least transplanted with some qualification to the Porto Rican. I see no objection to that.

But I think further we ought to provide these other qualifications, and before I feel disposed to support a bill of this character I should like that the amendment offered by the Senator from New Jersey be adopted, because I do not think Porto Rico is just yet at all prepared for woman suffrage. The status of women in Porto Rico is entirely different from the status of women in the United States or any of the 48 States of the Union.

The VICE PRESIDENT. The question is on the amendment of the Senator from Nebraska [Mr. NORRIS].

The amendment was agreed to.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Minnesota [Mr. CLAPP].

Mr. JONES. I wish to ask the chairman of the committee whether there is any tax exemption in Porto Rico?

Mr. SHAFROTH. I do not think there is any.

Mr. JONES. So if a person owns \$10 worth of property he will have to pay some taxes.

Mr. SHAFROTH. I think so.

Mr. POINDEXTER. Mr. President, I concur in a portion of what the Senator from Illinois [Mr. SHERMAN] has just said as to the effect of this amendment. I think if the amendment is adopted in its present form, women in Porto Rico would have the right to vote. I have no objection to that myself. I think it a meritorious feature of the amendment, with the other qualifications and conditions which are in effect. With this proviso, however, the Legislature of Porto Rico would have a right under this amendment to limit the franchise to male citizens of the United States 21 years of age, who come within one or the other of the various classes described in the amendment. This amendment, making the classes which are described in it, is not the grant of a privilege or the reservation of a right, as it has been apparently assumed in some portions of the debate. On the other hand, it is a limitation, and it leaves this condition, that the Legislature of Porto Rico, under the general powers which are granted by this act, can prescribe the qualifications of voters with the condition that they must come within one or the other of these several classes. In other words, you may take the class who can read and write, and the legislature may require in addition to that that they shall also have a property qualification. It may require in addition to that that they should have voted at the election in 1917. If the legislature should so require, it would still be within the terms of this act, because those granted the franchise would come within one of the classes here prescribed. That is all this amendment provides. The fact that the legislature should require additional qualifications would not in any way be inconsistent with the amendment.

The legislative powers of the island of Porto Rico will be vested in a legislature consisting of a senate and a house of representatives—a senate of 19 members, a house of representatives of 39 members—both branches to be elected by the people, and that legislature shall determine the qualifications of voters after the first election. This act is not very specific as to the powers of the legislative assembly. It is quite voluminous in prescribing the parliamentary procedure which shall govern the conduct of business, but practically the only specification of the power of the legislature is contained in section 37 in the most general terms:

Sec. 37. That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities so far as may be necessary, and to provide and repeal laws and ordinances therefor; also the power to alter, amend, modify, or repeal any or all laws and ordinances of every character now in force in Porto Rico or municipality or district thereof in so far as such alteration, amendment, modification, or repeal may be consistent with the provisions of this act.

And the further provision in section 38 that—

The Legislative Assembly of Porto Rico is hereby authorized to enact laws relating to the regulation of the rates, tariffs, and service of public carriers.

So that unless the subject matter is prohibited by the terms of this act the legislature of Porto Rico would have the power to legislate in regard to it in so far as it is applicable to the island of Porto Rico. Of course, that would include the franchise.

The VICE PRESIDENT. The question is on striking out paragraph 3 as now amended. [Putting the question.] The ayes seem to have it.

Mr. POINDEXTER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I have a pair with the senior Senator from New York [Mr. O'GORMAN], who is not in the Chamber, and for that reason I withhold my vote.

Mr. SMITH of Georgia (when his name was called). I have a pair with the Senator from Massachusetts [Mr. LODGE] and therefore refrain from voting.

Mr. STERLING (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. Not seeing that Senator in the Chamber, I withhold my vote.

Mr. VARDAMAN (when his name was called). I have a general pair with the junior Senator from Idaho [Mr. BRADY]. That Senator is absent, and I have been unable to secure a transfer. I will therefore withhold my vote. If permitted to vote, I should vote "nay."

Mr. WADSWORTH (when his name was called). I have a general pair with the junior Senator from New Hampshire [Mr. HOLLIS]. Not seeing him in the Chamber, I withhold my vote.

Mr. WALSH (when his name was called). I transfer my pair with the Senator from Rhode Island [Mr. LIPPITT] to the Senator from California [Mr. PHELAN] and vote "nay."

The roll call was concluded.

Mr. ROBINSON. I desire to announce that the Senator from Delaware [Mr. SAULSBURY] is absent on account of illness. I will ask that this announcement stand for the day.

Mr. MYERS. I inquire if the Senator from Connecticut [Mr. McLEAN] has voted?

The VICE PRESIDENT. He has not voted.

Mr. MYERS. I have a pair with that Senator, and in his absence I withhold by vote. If at liberty to vote, I should vote "yea."

Mr. BECKHAM. I inquire if the Senator from Delaware [Mr. DU PONT] has voted?

The VICE PRESIDENT. He has not voted.

Mr. BECKHAM. I have a pair with that Senator, and in his absence will withhold my vote.

Mr. VARDAMAN. I transfer my pair with the Senator from Idaho [Mr. BRADY] to the Senator from Oklahoma [Mr. GORE] and vote "nay."

I desire to state, while I am on my feet, that the Senator from Tennessee [Mr. SHIELDS] is absent on account of illness. I will ask that this announcement stand for the day.

Mr. WILLIAMS. I understand that the Senator from Pennsylvania [Mr. PENROSE] has not voted.

The VICE PRESIDENT. He has not voted.

Mr. WILLIAMS. Then I transfer my pair with that Senator to the Senator from Illinois [Mr. LEWIS] and vote "yea."

Mr. CLARK (after having voted in the affirmative). I inquire if the senior Senator from Missouri [Mr. STONE] has voted?

The VICE PRESIDENT. He has not voted.

Mr. CLARK. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. COLT. I inquire if the junior Senator from Delaware [Mr. SAULSBURY] has voted?

The VICE PRESIDENT. He has not voted.

Mr. COLT. In his absence I will withhold my vote. If at liberty to vote, I should vote "yea."

Mr. CURTIS. I have a general pair with the junior Senator from Georgia [Mr. HARDWICK]. In his absence I withhold my vote. Were I at liberty to vote, I should vote "yea."

Mr. McCUMBER (after having voted in the negative). The senior Senator from Colorado [Mr. THOMAS], with whom I have a pair, not having voted, I will withdraw my vote.

Mr. CATRON. I have a general pair with the Senator from Oklahoma [Mr. OWEN]. He being absent, I will withhold my vote.

Mr. GRONNA (after having voted in the affirmative). I have a general pair with the senior Senator from Maine [Mr. JOHNSON], which I transfer to the senior Senator from Minnesota [Mr. NELSON] and will let my vote stand.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Connecticut [Mr. BRANDEGEE] with the Senator from Arizona [Mr. SMITH];

The Senator from West Virginia [Mr. GOFF] with the Senator from South Carolina [Mr. TILLMAN];

The Senator from Ohio [Mr. HARDING] with the Senator from Alabama [Mr. UNDERWOOD]; and

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Maryland [Mr. SMITH].

Mr. OVERMAN (after having voted in the negative). I have a general pair with the Senator from Wyoming [Mr. WARREN], who is absent. I transfer that pair to the Senator from Alabama [Mr. BANKHEAD] and will let my vote stand.

The roll call resulted—yeas 31, nays 16, as follows:

YEAS—31.

Borah	Hughes	Martin, Va.	Sheppard
Bryan	Husting	Martine, N. J.	Smoot
Chamberlain	Jones	Norris	Sutherland
Clapp	Kenyon	Page	Townsend
Cummins	Kern	Pittman	Weeks
Fernald	La Follette	Pomerene	Williams
Gronna	Lane	Reed	Works
Hitchcock	Lea, Tenn.	Shafroth	

NAYS—16.

Broussard	Johnson, S. Dak.	Overman	Thompson
Culberson	Kirby	Poinceter	Vardaman
Fall	Lee, Md.	Robinson	Walsh
James	Oliver	Sherman	Watson

NOT VOTING—49.

Ashurst	Clark	Goff	Lippitt
Bankhead	Colt	Gore	Lodge
Beckham	Curtis	Harding	McCumber
Brady	Dillingham	Hardwick	McLean
Brandeggee	du Pont	Hollis	Myers
Catron	Fletcher	Johnson, Me.	Nelson
Chilton	Gallinger	Lewis	Newlands

O'Gorman	Shields	Smith, S. C.	Underwood
Owen	Simmons	Sterling	Wadsworth
Penrose	Smith, Ariz.	Stone	Warren
Phelan	Smith, Ga.	Swanson	
Ransdell	Smith, Md.	Thomas	
Saulsbury	Smith, Mich.	Tillman	

The VICE PRESIDENT. On the amendment of the Senator from Minnesota [Mr. CLAPP] to the amendment of the Senator from Washington [Mr. POINDEXTER] the yeas are 31 and the nays are 16. The Senator from New Hampshire [Mr. GALLINGER], the Senator from Kansas [Mr. CURTIS], the Senator from Rhode Island [Mr. COLT], the Senator from Georgia [Mr. SMITH], the Senator from South Dakota [Mr. STERLING], the Senator from New York [Mr. WADSWORTH], the Senator from Montana [Mr. MYERS], the Senator from Kentucky [Mr. BECKHAM], the Senator from Wyoming [Mr. CLARK], the Senator from North Dakota [Mr. McCUMBER], and the Senator from New Mexico [Mr. CATRON] are present and paired. The Chair declares the amendment to the amendment agreed to.

The question now is on the amendment of the Senator from New Jersey [Mr. MARTINE] in the nature of a substitute for section 35.

Mr. SHAFROTH. Mr. President, I hope the Senator from New Jersey will not insist upon that amendment, inasmuch as an amendment has been adopted which covers the matter.

Mr. MARTINE of New Jersey. I do not think it does cover the matter. It seems to me that my substitute is a clean-cut proposition, stripped of all of the "a, b, c" nonsense, and just plainly gives to the male citizens of Porto Rico who are citizens of the United States and over 21 years of age the right to vote. I press that amendment most earnestly, and I can not imagine a Democratic Senate, at least, in fact I can not imagine an American Senate voting for the propositions that are encompassed in the measure presented by the Senator from Colorado.

SEVERAL SENATORS. Question!

The VICE PRESIDENT. The question is on the amendment of the Senator from New Jersey in the nature of a substitute for section 35.

Mr. REED. Let the amendment be stated again, Mr. President. Some of us have been attending to duties on committees and could not be here.

The VICE PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. As a substitute for section 35 it is proposed to insert the following:

SEC. 35. That qualified electors shall be all males who are 21 years of age and over, and who are citizens of the United States.

Mr. MARTINE of New Jersey. That is a plain, clean-cut proposition.

The VICE PRESIDENT. The question is on agreeing to the amendment. [Putting the question]. The noes seem to have it.

Mr. MARTINE of New Jersey. I ask for the yeas and nays, Mr. President.

The yeas and nays were not ordered.

The amendment was rejected.

The VICE PRESIDENT. The Chair will ask concerning the proviso which was attached to the amendment, which the Secretary will read.

The SECRETARY. There is a proviso at the end of the amendment, which was agreed to, and which reads:

Provided, That at all elections subsequent to the first election herein provided for no one shall be entitled or permitted to register or vote who is not at the time of registration or election a bona fide citizen of the United States.

Mr. SHAFROTH. That is surplusage in view of the amendment offered by the Senator from Nebraska, because he has included the same language in his amendment.

The VICE PRESIDENT. The proviso, then, will be considered out. The bill is still before the Senate as in Committee of the Whole and open to further amendment.

Mr. POINDEXTER. Mr. President, I wish merely to say a word in explanation of my vote against the motion of the Senator from Minnesota [Mr. CLAPP] to strike out clause (c) of the amendment.

Now that that clause has been stricken out, the Legislature of Porto Rico must exclude from the franchise those who are not able to read and write and did not vote at the election of 1917. If that clause had remained in the act, not only those classes but also those who by thrift and industry had accumulated a little property could be given the franchise. Because the striking out of this class is a limitation upon the franchise I voted against the motion. Many good people in that island may have had no chance to learn to read and write.

The VICE PRESIDENT. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. SUTHERLAND. Mr. President, on page 6 I move to strike out lines 4 and 5, which read:

That the right of action to recover damages for injuries resulting in death shall never be abrogated.

I move to strike that out for this reason—

The VICE PRESIDENT. The Secretary seems to have a different copy of the bill.

Mr. SUTHERLAND. I am reading from the reprint. I have not the original bill in my hand.

The VICE PRESIDENT. What section is it?

Mr. SUTHERLAND. It is the last two lines of section 2.

Mr. SHAFROTH. What page and line?

Mr. SUTHERLAND. On page 6 of the print that I have.

Mr. SHAFROTH. What line?

Mr. SUTHERLAND. The last two lines.

The SECRETARY. It is on page 5, lines 23 and 24, and reads as follows:

That the right of action to recover damages for injuries resulting in death shall never be abrogated.

Mr. SUTHERLAND. Mr. President, my reason for moving to strike out those words is this: The effect of the provision would be to prevent the Legislature of Porto Rico from providing for a thoroughgoing workmen's compensation law if they desire to do so.

Mr. WADSWORTH. Mr. President, may we have order in the Chamber?

The VICE PRESIDENT rapped for order.

Mr. SUTHERLAND. Language of that character is to be found in the constitutions of some of the States, and the result has been that when they have desired to adopt so-called workmen's compensation laws they have had to resort to all sorts of devices to get around the effect of that provision, because the effect of providing that compensation shall be paid automatically for death resulting from injury is to abrogate the action for damages. The tendency in all civilized countries, including our own, is to get rid of the old common-law action for death or injury based upon negligence, and to substitute for it a law which permits the payment of compensation automatically after an accident has occurred.

For the reason that this provision will greatly interfere with the carrying out of that wholesome reform in Porto Rico, I move to strike it out.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Utah.

The amendment was agreed to.

The VICE PRESIDENT. The bill is still in Committee of the Whole and open to amendment. If there be no further amendment to be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The VICE PRESIDENT. The question is on engrossing the amendment and the third reading of the bill.

Mr. LA FOLLETTE. Mr. President, I have tried to have the corrections made, so that it is possible to know exactly what the qualifications of a voter may be and what power is left in the legislature to prescribe further qualifications. I do not know that I have the amendment before me in such form that I can possibly find my way through the corrections that have been made, in order to determine what has been adopted and what has been rejected; but, as far as I am concerned, I am not willing to leave to the Porto Rico Legislature the authority to fix qualifications for voters hereafter.

Mr. SHAFROTH. Mr. President, the Senator realizes, does he not, that the Congress of the United States retains control?

Mr. LA FOLLETTE. I do. I also realize how difficult it is to move Congress in certain directions, and I realize how potential great interests become in controlling legislation in these new governments which we set up.

Mr. SHAFROTH. Then I will suggest to the Senator, also, that the governor of the island, who is appointed by the President, has the veto power.

Mr. LA FOLLETTE. Yes.

Mr. SHAFROTH. And if they should override the veto power the matter comes to the President of the United States.

Mr. LA FOLLETTE. I realize that. But, Mr. President, I want to offer an amendment, if I can have time to do so. I have taken from the Clerk's desk the copy of the bill, to find the proper place to insert it, and I want an opportunity to offer an amendment which shall take from the legislature any authority to change the qualifications of a voter as fixed by this bill or to add any new qualifications to those which we establish for the Porto Rico electorate.

Mr. SHAFROTH. I would suggest to the Senator that there are a number of things that the Legislature of Porto Rico prop-

erly should do. For instance, it was said here on the floor of the Senate a short time ago that there is nothing in this about whether a criminal should be allowed to vote or not, and surely the Porto Rican Legislature should have the right to determine such qualifications as that. Then I hope the Senator will bear in mind that the Legislature of Porto Rico heretofore has exercised the right of extending the franchise instead of limiting it. It has been their claim and their contention that—

Mr. LA FOLLETTE. I do not want to show any discourtesy to the Senator, but I am unable to examine this bill and listen to the Senator at the same time.

Mr. SHAFROTH. Very well.

Mr. LA FOLLETTE. I do not wish to delay the Senate in the consideration of this bill, and yet I want to be sure about its provisions. I guess I had better ask for a roll call to get a little time.

Mr. OVERMAN. Mr. President—

Mr. SHAFROTH. I hope the Senator will not do that.

Mr. LA FOLLETTE. I do not want to do that.

Mr. SHAFROTH. I will not interrupt the Senator further.

Mr. LA FOLLETTE. I should like to see this bill passed. I should like to correct this amendment so that I will know its provisions.

Mr. SMITH of Georgia (after a pause). Mr. President, can we not proceed with the bill?

Mr. LA FOLLETTE. Yes; you can. Do you want to?

Mr. SMITH of Georgia. The Chair has ordered the third reading of the bill.

Mr. LA FOLLETTE. Well, I will call for a quorum, Mr. President.

Mr. SHAFROTH. I hope the Senator will not do that.

Mr. LA FOLLETTE. I will not do it if I can have time to look at this amendment.

Mr. FALL. I make the point of no quorum.

Mr. SMITH of Georgia. If the Senator had been in the Senate, he would have heard the amendment.

Mr. LA FOLLETTE. I was in the Senate.

Mr. SMITH of Georgia. Part of the time.

Mr. LA FOLLETTE. I was in the Senate all of the time.

Mr. WILLIAMS. Go ahead and fix it.

Mr. SMITH of Georgia. I looked at the Senator's chair and did not see him.

Mr. LA FOLLETTE. I have been upon the floor of the Senate.

The VICE PRESIDENT. The Senator from New Mexico suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Beckham	Gallinger	Martin, Va.	Smith, Ga.
Borah	Gronna	Martine, N. J.	Smoot
Brandeggee	Harding	Nelson	Sterling
Bryan	Hitchcock	Oliver	Stone
Catron	Hughes	Overman	Sutherland
Chamberlain	James	Owen	Swanson
Chilton	Jones	Page	Thompson
Clark	Kern	Polindexter	Tillman
Colt	La Follette	Pomerene	Wadsworth
Culberson	Lee, Tenn.	Reed	Watson
Cummins	Lee, Md.	Shafroth	Williams
Fall	Lippitt	Sheppard	
Fletcher	Lodge	Sherman	

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

Mr. OVERMAN. Mr. President, I consented to have the unfinished business laid aside for 15 minutes with the understanding that this bill was not to take much longer than that.

Mr. SHAFROTH. I think we are about to finish up this bill now, Mr. President.

Mr. OVERMAN. If it takes much longer, I shall have to call up the unfinished business.

Mr. JAMES. It will be passed directly.

Mr. LA FOLLETTE. Mr. President, after the word "qualifications," in line 4 of section 35, I offer the amendment which I send to the desk.

The VICE PRESIDENT. Of course it will be necessary to reconsider the vote whereby this amendment was adopted.

Mr. LA FOLLETTE. Then I move to reconsider the vote.

The VICE PRESIDENT. The question is on the motion of the Senator from Wisconsin. [Putting the question.] By the sound the yeas seem to have it.

Mr. FALL. I call for the yeas and nays, Mr. President.

The yeas and nays were not ordered.

The VICE PRESIDENT. The yeas have it, and the vote is reconsidered. Now the Senator from Wisconsin offers an amendment, which will be stated.

The SECRETARY. At the end of line 4, after the word "qualifications," it is proposed to insert a comma and the words

"which shall not hereafter be altered by the Legislature of Porto Rico without the consent of Congress."

The VICE PRESIDENT. The question is on the amendment of the Senator from Wisconsin to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment as amended.

Mr. FALL. Upon that I call for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. CATRON. Mr. President, what are we going to vote on?

The VICE PRESIDENT. On agreeing to the amendment as amended.

The Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). In the absence of the Senator from Delaware [Mr. DU PONT], with whom I have a general pair, I withhold my vote.

Mr. COLT (when his name was called). In the absence of my pair I withhold my vote.

Mr. GALLINGER (when his name was called). Announcing my pair with the senior Senator from New York [Mr. O'GORMAN], who is absent, I withhold my vote.

Mr. OVERMAN (when his name was called). I transfer my pair with the Senator from Wyoming [Mr. WARREN] to the Senator from Illinois [Mr. LEWIS] and vote "yea."

Mr. SIMMONS (when his name was called). In the absence of the Senator from Minnesota [Mr. CLAPP], with whom I am paired, I withhold my vote.

Mr. STERLING (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH] and withhold my vote.

Mr. VARDAMAN (when his name was called). I ask if the Senator from Idaho [Mr. BRADY] has voted?

The VICE PRESIDENT. He has not.

Mr. VARDAMAN. I have a pair with that Senator and therefore withhold my vote.

Mr. WADSWORTH (when his name was called). I have a general pair with the Senator from New Hampshire [Mr. HOLLISS]. In his absence I withhold my vote.

The roll call was concluded.

Mr. GRONNA. I have a general pair with the Senator from Maine [Mr. JOHNSON], which I transfer to the senior Senator from California [Mr. WORKS] and vote "yea."

Mr. CURTIS. I have a pair with the junior Senator from Georgia [Mr. HARDWICK]. Under the circumstances I feel at liberty to vote, and I vote "yea."

Mr. BANKHEAD. I desire to announce the absence of my colleague [Mr. UNDERWOOD] on account of illness.

Mr. HARDING. I note the absence of the junior Senator from Alabama [Mr. UNDERWOOD] with whom I am paired. I therefore withhold my vote.

Mr. CURTIS. I have been requested to announce that the Senator from Arkansas [Mr. ROBINSON] is paired with the Senator from Michigan [Mr. TOWNSEND].

Mr. TILLMAN. I transfer my pair with the Senator from West Virginia [Mr. GOFF] to the Senator from Arizona [Mr. SMITH] and vote "yea."

Mr. WILLIAMS. Transferring my pair with the Senator from Pennsylvania [Mr. PENROSE] to the Senator from Arkansas [Mr. KIRBY], I vote "yea."

The result was announced—yeas 41, nays 18, as follows:

YEAS—41.

Bankhead	Hughes	McCumber	Sheppard
Bryan	Husting	Martin, Va.	Smith, Ga.
Chamberlain	James	Martine, N. J.	Smoot
Chilton	Johnson, S. Dak.	Nelson	Stone
Culberson	Jones	Norris	Thompson
Cummins	Kenyon	Overman	Tillman
Curtis	Kern	Page	Walsh
Fernald	La Follette	Pittman	Williams
Fletcher	Lane	Pomerene	
Gronna	Lee, Md.	Reed	
Hitchcock	Lodge	Shafroth	

NAYS—13.

Borah	Clark	Pointexter	Watson
Brandeggee	Fall	Ransdell	
Broussard	Lippitt	Sherman	
Catron	Oliver	Sutherland	

NOT VOTING—42.

Ashurst	Hardwick	Penrose	Swanson
Beckham	Hollis	Phelan	Thomas
Brady	Johnson, Me.	Robinson	Townsend
Clapp	Kirby	Saulsbury	Underwood
Colt	Lee, Tenn.	Shields	Vardaman
Dillingham	Lewis	Simmons	Wadsworth
du Pont	McLean	Smith, Ariz.	Warren
Gallinger	Myers	Smith, Md.	Weeks
Goff	Newlands	Smith, Mich.	Works
Gore	O'Gorman	Smith, S. C.	
Harding	Owen	Sterling	

So the amendment as amended was agreed to.
Mr. LA FOLLETTE. Mr. President, the amendment is still open to amendment?

The VICE PRESIDENT. Not unless the vote is again reconsidered.

Mr. LA FOLLETTE. In the haste of formulating this amendment, which was prepared at the Clerk's desk, three words were omitted which, I believe, are necessary in order to carry out the purpose for which the amendment was offered. Without these words the amendment as adopted fails to accomplish the purpose for which it was offered. Therefore, I want to offer to further amend it, and, if it is necessary, I ask unanimous consent that the vote by which this amendment was agreed to be reconsidered.

The VICE PRESIDENT. The Senator from Wisconsin asks unanimous consent that the vote be reconsidered.

Mr. FALL. I object.

Mr. LA FOLLETTE. Then, Mr. President, I move to reconsider that vote.

The VICE PRESIDENT. The Senator from Wisconsin moves to reconsider the vote whereby the amendment as amended was adopted.

Mr. SUTHERLAND. Before voting on that question I should like to know what the Senator from Wisconsin proposes to add.

Mr. LA FOLLETTE. I propose to add, after the word "qualifications" in the amendment which was adopted, the words "and no others."

Mr. SUTHERLAND. What is the effect?

Mr. LA FOLLETTE. The effect of it would be to prevent the legislature from imposing further qualifications aside from those fixed by the provisions which we have adopted and such as Congress hereafter consents to.

Mr. SUTHERLAND. The motion is debatable, I understand.

Mr. LA FOLLETTE. I offered the previous amendment, but I find on an examination with reference to the context of the whole paragraph that it will not accomplish the purpose for which it was offered without the addition of these three words.

Mr. SUTHERLAND. I am not going to object to a reconsideration of the vote, but I intend to have something to say about the amendment itself when it is presented.

Mr. OVERMAN. If it is going to lead to a debate, I must insist on the regular order.

The VICE PRESIDENT. There was an objection to a reconsideration; so the question is on reconsidering the vote whereby the amendment as amended was adopted. [Putting the question.] The Chair is unable to decide.

Mr. FLETCHER. Let us have a division.

Mr. FALL. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). In the absence of my pair I withhold my vote.

Mr. CURTIS (when his name was called). Again announcing my pair with the junior Senator from Georgia [Mr. HARDWICK], I withhold my vote.

Mr. GALLINGER (when his name was called). Again announcing my pair with the Senator from New York [Mr. O'GORMAN], who is absent, I withhold my vote.

Mr. OVERMAN (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. WARREN], and therefore withhold my vote.

Mr. TILLMAN (when his name was called). I transfer my pair as before and vote "yea."

Mr. WADSWORTH (when his name was called). In the absence of the junior Senator from New Hampshire [Mr. HOLLIS] I withhold my vote and announce my pair.

Mr. WILLIAMS (when his name was called). Repeating the announcement made on the last ballot, I transfer my pair to the Senator from Tennessee [Mr. SHIELDS] and vote "yea."

The roll call was concluded.

Mr. GRONNA (after having voted in the affirmative). I transfer my pair with the Senator from Maine [Mr. JOHNSON] to the senior Senator from California [Mr. WORKS] and let my vote stand.

Mr. SMITH of Michigan (after having voted in the affirmative). I voted in the absence of my pair and withdraw my vote.

The roll call resulted—yeas 32, nays 11, as follows:

YEAS—32.

Borah	Fernald	James	Kern
Chamberlain	Fletcher	Johnson, S. Dak.	La Follette
Chilton	Gronna	Jones	Lane
Culberson	Husting	Kenyon	Lea, Tenn.

Lee, Md.
Lippitt
Lodge
Martine, N. J.

Norris
Owen
Page
Phelan

Shafroth
Sheppard
Smoot
Tillman

Vardaman
Walsh
Watson
Williams

NAYS—11.

Brandegee
Broussard
Catron

Fall
Hitchcock
Martin, Va.

Oliver
Ransdell
Smith, Ga.

Stone
Sutherland

NOT VOTING—53.

Ashurst
Bankhead
Beckham
Brady
Bryan
Clapp
Clark
Colt
Cummings
Curtis
Dillingham
du Pont
Gallinger
Goff

Gore
Harding
Hardwick
Hollis
Hughes
Johnson, Me.
Kirby
Lewis
McCumber
McLean
Myers
Nelson
Newlands
O'Gorman

Overman
Penrose
Pittman
Poindexter
Pomerene
Reed
Robinson
Saulsbury
Sherman
Shields
Simmons
Smith, Ariz.
Smith, Md.
Smith, Mich.

Smith, S. C.
Sterling
Swanson
Thomas
Thompson
Townsend
Underwood
Wadsworth
Warren
Weeks
Works

The VICE PRESIDENT. The yeas are 32 and the nays are 11. Senators ASHURST, BECKHAM, CURTIS, GALLINGER, HARDING, OVERMAN, and SMITH of Michigan are in the Senate paired and not voting. The motion to reconsider is carried.

Mr. OVERMAN. I understand that this amendment is going to take a long time; and if so, I feel compelled to call for the regular order. I ask that the unfinished business be proceeded with.

Mr. SHAFROTH. I appeal to the Senator from Wisconsin to withdraw his amendment and let us pass the bill.

Mr. LA FOLLETTE. The amendment which I propose to offer is only to insure the carrying out of the purpose of the amendment which the Senate adopted, and if the Senate stands by its previous vote—

Mr. WILLIAMS. Let us agree by unanimous consent to vote on it.

Mr. LA FOLLETTE. Very well; if it can be voted on in that way.

Mr. WILLIAMS. I ask unanimous consent to vote on the amendment without debate.

Mr. FALL. I object.

Mr. SUTHERLAND. I shall have to object to that.

Mr. SHAFROTH. I appeal to the Senator from Wisconsin to withdraw it. We are right here near the passage of the bill.

Mr. LA FOLLETTE. I do not want to jeopardize the final passage of the bill. If I can have the assurance of the chairman of the committee that he will use his best endeavors in conference to so change and modify the amendment as to carry out the intention and purpose of the Senate in adopting the amendment, I will not offer to amend it.

Mr. FALL. Mr. President, I desire to say to the Senator that other Senators here probably have just as sincere convictions upon this matter as he has, and should the chairman of the committee agree to the proposition, which I consider rather a remarkable one myself, as a member of the committee I will say the bill will not pass at the present time. So there will be nothing gained by the acceptance by the chairman of the proposition of the Senator from Wisconsin.

Mr. WILLIAMS. Would the Senator from New Mexico object to unanimous consent to take a vote on the amendment now?

Mr. FALL. Yes, sir; I object. I think it is a matter the Senate ought to receive a little information upon.

Mr. SHAFROTH. I appeal to the Senator from Wisconsin again.

Mr. LA FOLLETTE. The Senator ought not to do that. I am simply asking for a change in the amendment to carry out the intention of the Senate in adopting it.

Mr. SHAFROTH. The bill is likely to be defeated if it is insisted upon. The bill is a good bill.

Mr. VARDAMAN. Why can we not vote on it now?

Mr. BRANDEGEE. I ask for the regular order.

Mr. OVERMAN. I have demanded the regular order.

The VICE PRESIDENT. The Chair has nothing to do, if the Senator from North Carolina asks for it, but to lay the unfinished business before the Senate.

Mr. OVERMAN. I am compelled to do so.

Mr. SHAFROTH. Let me say to the Senator from New Mexico—

Mr. BRANDEGEE. I demanded the regular order.

Mr. SHAFROTH. I ask the Senator from New Mexico to allow a vote to be taken.

The VICE PRESIDENT. The Senator from Connecticut is demanding the regular order, and at the request of the Senator from North Carolina the unfinished business is before the Senate.

JUVENILE COURT OF THE DISTRICT OF COLUMBIA.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 8348) to amend an act entitled "An act to create a juvenile court in and for the District of Columbia, and for other purposes," and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POMERENE. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. POMERENE, Mr. HOLLIS, and Mr. DILLINGHAM conferees on the part of the Senate.

PRISON SHIPS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of the 12th instant, reports on file in the Navy Department relative to prison ships, which, with the accompanying papers, was referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by E. T. Taylor, Jr., one of its clerks, announced that the House had passed the joint resolution (S. J. Res. 205) authorizing the removal of the statue of Admiral Dupont, in Dupont Circle, in the city of Washington, D. C., and the erection of a memorial to Admiral Dupont in place thereof, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (S. J. Res. 157) giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the reunion of the Confederate Veterans' Association, to be held in the District of Columbia in the year 1917, and for other purposes incident to said encampment.

The message further announced that the House agrees to the amendment of the Senate to the bill (H. R. 11474) authorizing the Secretary of Commerce to permit the construction of a public highway through the fish-cultural station in Unicoi County, Tenn.

The message also announced that the House insists upon its amendment to the bill (S. 135) for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians, declared forfeited by the act of February 16, 1863, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CARTER of Oklahoma, Mr. HAYDEN, and Mr. NORTON managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 5672. An act for the relief of sundry building and loan associations;

S. 5890. An act to punish persons who make false representations to settlers and others pertaining to the public lands of the United States;

S. 8105. An act granting the consent of Congress to the Conway County bridge district to construct, maintain, and operate a bridge across the Arkansas River, in the State of Arkansas; and

H. R. 9288. An act providing for the refund of certain duties illegally levied and collected on acetate of lime.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented a memorial of the Farmers' National Congress of the United States, remonstrating against the proposed reduction of the tax on oleomargarine, which was ordered to lie on the table.

He also presented a petition of the Publicity Association and Chamber of Commerce of Manchester, N. H., praying for the passage of the so-called daylight saving bill, which was referred to the Committee on Interstate Commerce.

Mr. PHELAN presented a petition of the Trades and Labor Council of Vallejo, Cal., praying for the enactment of legislation authorizing the investigation by the Government of marketing and dairy products, which was referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES.

Mr. SHEPPARD. From the Committee on Military Affairs I report back adversely the bill (S. 5204) for the relief of Stephen A. Winchell, with the request that it be placed on the calendar.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 4357) to correct the military record of Joseph J. Mitchell, reported it with amendments and submitted a report (No. 1065) thereon.

Mr. LEE of Maryland, from the Committee on Claims, to which was referred the bill (S. 2581) for the relief of the heirs of Adam and Noah Brown, reported it with an amendment and submitted a report (No. 1066) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LANE:

A bill (S. 8270) granting an increase of pension to Clifford A. Lewis (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 8271) for the protection, regulation, and conservation of the fisheries of Alaska, and for other purposes; to the Committee on Fisheries.

By Mr. WALSH:

A bill (S. 8272) to authorize the Secretary of the Interior to prorate tribal funds of Indians; to the Committee on Indian Affairs.

By Mr. ROBINSON:

A bill (S. 8273) releasing the claim of the United States Government to the block or square of land in the city of Fort Smith, in the State of Arkansas, upon which is situated the old Federal jail, to the State of Arkansas, for a site for an armory and training camp of the Arkansas National Guard; to the Committee on Public Lands.

A bill (S. 8274) to prohibit interstate and foreign commerce in certain products of female labor, and for other purposes; to the Committee on Interstate Commerce.

A bill (S. 8275) to carry out the findings of the Court of Claims in the case of W. W. Busby, administrator of the estate of Evelina V. Busby, deceased, against the United States; to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SHEPPARD submitted an amendment authorizing the Secretary of War to acquire land for aviation purposes, intended to be proposed by him to the Army appropriation bill (H. R. 20783), which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. PENROSE submitted an amendment authorizing the Secretary of the Treasury to acquire by purchase, condemnation, or otherwise, the plot of ground known as the O'Neal property, immediately east of and adjoining the present post-office site at Gettysburg, Pa., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment providing that during the fiscal year 1918 the civilian employees under the Navy Department included on the lump-sum rolls only those persons who were carried thereon at the close of the fiscal year 1917 shall receive increased compensation at the rate of 10 per cent per annum, etc., intended to be proposed by him to the naval appropriation bill (H. R. 20632), which was referred to the Committee on Naval Affairs and ordered to be printed.

He also submitted an amendment authorizing the Secretary of War to purchase certain land for the Gettysburg National Military Park, etc., intended to be proposed by him to the Army appropriation bill (H. R. 20783), which was referred to the Committee on Military Affairs and ordered to be printed.

THE REVENUE.

Mr. WEEKS submitted an amendment intended to be proposed by him to the bill (H. R. 20573) to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extension of fortifications, and for other purposes, which was ordered to lie on the table and be printed.

OFFENSES AGAINST THE GOVERNMENT.

Mr. WALSH submitted two amendments to the amendment of the committee to the bill (S. 8148) to define and punish espionage, which were ordered to lie on the table and be printed.

AGRICULTURAL APPROPRIATIONS (S. DOC. NO. 713).

Mr. SMITH of South Carolina submitted the following report:

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19359) making appropriations for the Department of Agriculture

for the fiscal year ending June 30, 1918, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 14, 21, 24, 26, 29, 30, 44, 45, 48, 67, 68, 69, 70, 71, 75, 76, 77, 79, 82, 84, 98, and 101.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 7, 9, 12, 16, 17, 18, 20, 22, 25, 34, 35, 38, 39, 40, 41, 42, 43, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 72, 78, 80, 81, 83, 87, 89, 92, 94, 95, 96, 100, 102, and 105, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: After the word "establishment" in said amendment insert a comma and the word "equipment," and strike out "\$20,000" and insert in lieu thereof "\$6,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: On page 9, line 5, strike out "\$1,468,740" and insert in lieu thereof "\$1,455,240"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: On page 9, line 6, strike out "\$1,796,640" and insert in lieu thereof "\$1,783,140"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In lieu of "\$269,200" insert "\$277,580"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: After the word "equipment" in the Senate amendment strike out the words "and maintenance"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In lieu of "\$2,004,956" insert "\$2,613,336"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of "\$3,445,326" insert "\$3,555,326"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of "\$90,010" insert "\$82,510," and in lieu of "\$15,000" insert "\$7,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lieu of "\$112,200" insert "\$107,200," and in lieu of "\$14,000" insert "\$9,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In lieu of "\$2,460,530" insert "\$2,480,530"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of "\$3,123,630" insert "\$3,143,630"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: Before the figures "\$1,200" in the Senate amendment insert the words "not exceeding"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: Transpose the comma and the figures "\$60,100," following the Senate amendment, to a position preceding said amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows: In lieu of "\$1,814,567" insert "\$1,817,567"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows: In lieu of "\$3,261,475" insert "\$3,264,475"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of "\$5,709,275" insert "\$5,712,275"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of "\$2,992,580" insert "\$2,972,580"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of "\$3,127,660" insert "\$3,107,660"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of "\$813,395" insert "\$843,395"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment as follows: In lieu of "\$1,688,575" insert "\$1,718,575"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: Strike out the language "same to be additional to the existing 80 acres now used as a plant-introduction field station" and transfer the paragraph as thus amended to page 24, between lines 18 and 19 of the bill; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: In lieu of "\$139,500" insert "\$104,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of "\$160,000" insert "\$125,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment as follows: In lieu of "\$24,581,213" insert "\$24,679,113"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of "\$25,831,213" insert "\$25,929,113"; and strike out the new language added by the Senate amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of "\$480" insert "\$1,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment as follows: In lieu of "\$480" insert "\$1,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of "\$1,000" insert "\$1,500"; and the Senate agree to the same.

E. D. SMITH,
HOKE SMITH,
F. E. WARREN,

Managers on the part of the Senate.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,

Managers on the part of the House.

The VICE PRESIDENT. The report will lie on the table and be printed.

ORDER OF BUSINESS.

Mr. SMITH of Georgia. I ask that the action of the House upon the conference report on Senate bill 703 be laid before the Senate. I wish to say to the Senator from North Carolina if it takes 10 minutes I will not ask to proceed with its consideration. I think there will be no objection at all to concurring in the action of the House, and we can dispose of it at once.

Mr. LA FOLLETTE. What is the bill, I inquire?

Mr. SMITH of Georgia. The vocational educational bill.

Mr. OVERMAN. It is the conference report?

Mr. SMITH of Georgia. It is the conference report. The House has acted upon the conference report.

Mr. SMOOT. I have no objection to its present consideration, but I have not had time to read the report; and if the report is laid before the Senate I will ask the Senator to make a statement as to what the changes are.

Mr. SMITH of Georgia. I can do that in two minutes. We yielded only two propositions, and those not substantial.

The VICE PRESIDENT. Is there objection?

Mr. OVERMAN. The Senator agrees as he has stated.

Mr. SMITH of Georgia. If we can not pass it in 10 minutes, if there is any debate, I will ask leave to withdraw it.

Mr. POINDEXTER. I object, Mr. President.

I move that the Senate proceed to the consideration of the bill (H. R. 9533) to provide a civil government for Porto Rico, and for other purposes. I hope this motion will be adopted, because it is evident we can dispose of the bill in probably 15 or 20 minutes.

Mr. OVERMAN. I will say to the Senator that Senators have stated to me that the Porto Rican bill will take some time, and they are not going to let it pass without debate. Therefore I hope the Senate will vote down the motion of the Senator from Washington.

Mr. POINDEXTER. I ask for the yeas and nays on my motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). In the absence of my pair I withhold my vote.

Mr. CURTIS (when his name was called). Again announcing my pair with the junior Senator from Georgia Mr. [HARDWICK], I withhold my vote.

Mr. SMOOT (when Mr. GALLINGER's name was called). I desire to announce the unavoidable absence of the Senator from New Hampshire [Mr. GALLINGER]. He has a general pair with the senior Senator from New York [Mr. O'GORMAN].

Mr. WILLIAMS (when his name was called). Transferring my pair with the Senator from Pennsylvania [Mr. PENROSE] to the Senator from Tennessee [Mr. SHIELDS], I vote "yea."

Mr. VARDAMAN (when his name was called). I transfer my pair with the junior Senator from Idaho [Mr. BRADY] to the senior Senator from Oklahoma [Mr. GORE] and vote "yea."

The roll call having been concluded, it resulted—yeas 22, nays 25, as follows:

YEAS—22.

Asburt	Johnson, S. Dak.	Poinexter	Walsh
Bryan	Kenyon	Shafroth	Watson
Cummins	La Follette	Sheppard	Williams
Hitchcock	Lane	Sherman	Works
Hughes	Norris	Tillman	
James	Page	Vardaman	

NAYS—25.

Borah	Fletcher	Oliver	Sterling
Brandegge	Husting	Overman	Sutherland
Chamberlain	Jones	Pittman	Thompson
Chilton	Lippitt	Ransdell	Townsend
Culberson	Lodge	Smith, Ga.	
Fall	Martine, N. J.	Smith, S. C.	
Fernald	Nelson	Smoot	

NOT VOTING—49.

Bankhead	Gore	Martin, Va.	Smith, Ariz.
Beckham	Gronna	Myers	Smith, Md.
Brady	Harding	Newlands	Smith, Mich.
Broussard	Hardwick	O'Gorman	Stone
Catron	Hollis	Owen	Swanson
Clapp	Johnson, Me.	Penrose	Thomas
Clark	Kern	Phelan	Underwood
Colt	Kirby	Pomerene	Wadsworth
Curtis	Lea, Tenn.	Reed	Warren
Dillingham	Lee, Md.	Robinson	Weeks
du Pont	Lewis	Saulsbury	
Gallinger	McCumber	Shields	
Goff	McLean	Simmons	

The PRESIDING OFFICER (Mr. CHILTON in the chair). On this vote the yeas are 22 and the nays are 25. The Senator from Kentucky [Mr. BECKHAM], the Senator from Kansas [Mr. CURTIS], and the Senator from New Mexico [Mr. CATRON] are present and not voting. So the motion of the Senator from Washington [Mr. POINDEXTER] is lost.

VOCATIONAL EDUCATION.

Mr. SMITH of Georgia. Mr. President, I now ask that the Presiding Officer lay before the Senate the action of the House of Representatives upon the conference report on Senate bill 703, which was a concurrence in the conference report.

The PRESIDING OFFICER. The Senator from Georgia asks unanimous consent that the conference report on Senate bill 703 be now laid before the Senate. Is there objection?

Mr. JONES. Mr. President, I want to say to the Senator having the measure in charge, which is now the unfinished business—the Senator from North Carolina [Mr. OVERMAN]—as we have been proceeding heretofore by taking up one bill and talking about it a little while, then setting it aside and taking up another bill, and all that sort of thing, that I shall hereafter, if I am present, object to unanimous consent to the laying aside of the unfinished business for the consideration of anything except conference reports, appropriation bills, and the revenue bill.

Mr. OVERMAN. The unfinished business has only been laid aside once, and every Senator realized that that was all right,

as it was to conclude the consideration of the Porto Rican bill, the understanding being that on the present occasion it would only take three or four minutes to dispose of it; but after the debate proceeded it was realized that the consideration of that bill would take up so much time that it was impossible to conclude its consideration, and therefore I made the motion which I did.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia [Mr. SMITH]? The Chair hears none, and lays the conference report referred to before the Senate.

The Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 703) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure.

Mr. SMITH of Georgia. Mr. President, I will state to Senators that the only amendments of any importance are those which I have mentioned. First, we extend the date one year later. In our original bill we expected to get ready to operate in 1916-17. Now, we have extended it to begin in 1917-18. In the bill as it passed the Senate we provided a vocational board to be in charge of the work, consisting of the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor. The House rejected all Cabinet officers, and provided for a board of five men, one representing manufacturing, one representing commerce, one representing agriculture, one representing labor, and I do not know who the fifth member was, but one representing something else.

Mr. SMOOT. All to be appointed by the President.

Mr. SMITH of Georgia. All to be appointed by the President. We adjusted that difference between us by retaining the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, and making the Commissioner of Education a member of the board. Under our original bill he was not a member of the board, but was the executive officer. We abandoned him as an executive officer, and put him on the board. Then we added three additional members, to be named by the President, one of whom should be a representative of manufacturing and commerce, one a representative of agriculture, and one a representative of labor. We have merged the two ideas into one.

Mr. SMOOT. The board will consist of seven members, instead of five, as the Senate bill provided?

Mr. SMITH of Georgia. Yes. We also had a provision in the Senate bill that named four men, to be selected by the board, to be directors—one the general director of vocational education at a salary of \$7,500, one a specialist in agriculture, one a specialist in trades and mechanical arts, one a specialist in commerce, and one a specialist in domestic science or commerce. We named the specialists and fixed their salaries. We gave that up; but left the broad power in this board to determine whether specialists were needed, and, if so, to fix their salaries. We put that provision as to salaries in the Senate bill largely because we wanted to be sure that they would be high-class men. After conference with the House conferees we concluded that we should leave the board unrestricted, for it might be that they would want a man who would require even a higher salary than the highest we had named. We felt that the board ought to put at the head of this work the very ablest man who could be found in the United States who would take charge of it.

Mr. SMOOT. Then, under the provisions of the conference report there would be no limit at all placed upon the wage of any of the employees?

Mr. SMITH of Georgia. None at all, except that the board is given \$200,000 for its own use to promote the organization and the development of the work. The salaries of the members of the board, however, are only \$5,000 each.

Mr. SMOOT. I will say to the Senator from Georgia that perhaps that will be satisfactory for the first year; but in the next appropriation bill providing the funds for carrying out the provisions of the bill I hope the Senator will agree with us that each officer shall be specifically provided for and his salary fixed.

Mr. SMITH of Georgia. The Senator from Utah knows that that is one of the theories that I have always urged and pressed.

The original bill as prepared by our joint committee did not contain the paragraph naming the salaries of these five experts. I wrote that myself, and asked the Senate to adopt it, but the House declined to adopt it. We felt that at least for the first year we could leave it to the board, broadly organized as it is, to start the work without restriction. That is practically all that we yielded. The House yielded on the other matters.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The report was agreed to.

Mr. SMITH of Georgia. There is a concurrent resolution in connection with this matter, which the House of Representatives has passed. We use the word "name" at one place in the House conference report, where we meant to convey the meaning covered by the resolution; and after the adoption of the conference report the House passed the resolution.

The PRESIDING OFFICER. The Chair lays before the Senate the concurrent resolution from the House of Representatives, which will be read.

The Secretary read the concurrent resolution, as follows:

House concurrent resolution 75.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill S. 703, entitled "An act to provide for the promotion of vocational education, to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries, to provide for cooperation with the States in the preparation of teachers of vocational subjects, and to appropriate money and regulate its expenditure," the Secretary of the Senate be, and he is hereby, authorized and directed to strike out the word "name" and to insert in lieu thereof the words "designate or create," in the third line of the second paragraph of section 5, as the same appears in the conference report on said bill and amendment.

Mr. SMITH of Georgia. The word "name" applies to authority to the governor, pending the action of the legislature, to name a board. This language, it was desired, should be uniform.

The PRESIDING OFFICER. The question is on concurring in the resolution.

The resolution was concurred in.

Mr. SMITH of Georgia. I thank the Senator from North Carolina [Mr. OVERMAN].

OFFENSES AGAINST THE GOVERNMENT.

Mr. OVERMAN. As I understand, Mr. President, the unfinished business is now before the Senate.

The PRESIDING OFFICER. It is.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8148) to define and punish espionage.

The PRESIDING OFFICER. The pending amendment will be stated.

The SECRETARY. The pending amendment is one which was offered by the junior Senator from Oklahoma [Mr. OWEN], on page 10, line 9, to strike out the word "defeat" and to insert the word "influence"; and, in line 10, to strike out the words "in relation to such dispute or controversy" and to insert the words "or any branch thereof."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

Mr. OVERMAN. Mr. President, I think the Senator from Oklahoma ought to be present when that amendment is acted upon. I hope no action will be taken on the amendment until he comes in. I ask unanimous consent that it be passed over temporarily.

The PRESIDING OFFICER. Without objection, that course will be pursued.

Mr. OVERMAN. The question we were considering yesterday was an amendment offered by the Senator from Iowa [Mr. CUMMINS]. He withdrew the amendment, however, and offered another amendment. If he will introduce that now, I think this would be the proper time to consider and dispose of it. We had quite a debate yesterday on the subject.

Mr. OWEN entered the Chamber.

Mr. CUMMINS. Mr. President, I am quite willing that the amendment proposed by the Senator from Oklahoma be now taken up.

Mr. OWEN. It will take only a moment. On page 10, I suggested an amendment in line 9.

The PRESIDING OFFICER. The amendment has just been stated, but, in the absence of the Senator from Oklahoma, it was, by unanimous consent, laid aside.

Mr. OWEN. The purpose of the amendment which I proposed was to broaden the matter so as to cover an untrue statement orally or in writing under oath which had a view or intent to influence any measure of or action by the Government of the United States or any branch thereof. The amendment makes it broad. We ought not, I think, to permit false statements in writing to be made to influence the Government of the United States. The Senate will doubtless remember in the *Lusitania* case that there was a man who made a false affidavit with regard to munitions of war, arms, and cannon on the *Lusitania*. It was on the basis of that false statement that Germany is supposed to have sunk the *Lusitania*. A similar affidavit might be made by a United States citizen that would lead to most mischievous consequences. The language ought, therefore, to be

made as broad as possible. That is all I wish to suggest. I think it is obvious that that ought to be the law.

The PRESIDING OFFICER. The Secretary will again state the amendment.

The SECRETARY. On page 10, line 9, it is proposed to strike out the word "defeat" and to insert the word "influence," and in line 10 to strike out the words "in relation to such dispute or controversy" and to insert the words "or any branch thereof."

The PRESIDING OFFICER. Are the two amendments to be considered together?

Mr. OWEN. I ask that they may be considered as one amendment.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is still before the Senate as in Committee of the Whole.

Mr. STERLING. Mr. President, at this point I should like to inquire what was done, if anything, with the words "under oath," in line 2, on page 10? Were they left in the bill? I know there was some discussion on the point last evening, and I thought at one time that they had been stricken out.

Mr. OVERMAN. They were left in the bill, because it was stated that the objection was covered in another section. The chapter was not amended at all.

Mr. STERLING. Mr. President, it occurs to me that statements injurious to the Government and having a tendency to hinder or injure the Government in its operations can as well be made without being made under oath as if they were made under oath. I hardly see why it should be required that statements of this kind, in order that the party uttering them should be punished, should be required to be made under oath. The statements aimed at are those intended "to influence the measures or conduct of any foreign Government," which statements in order to be injurious need not be under oath.

Mr. SMITH of Michigan. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Michigan?

Mr. STERLING. I do.

Mr. SMITH of Michigan. If the Senator's theory is worked out practically, we will be obliged to enforce it on our Mexican border, where statements are made not only derogatory to the Government, but truthful; and, if so made, and the Government believe them to be untrue, the person uttering them must be apprehended under that very extraordinary power.

Mr. STERLING. I would say, Mr. President, that the object of this provision is to punish such statements as will tend "to influence the measures or conduct of any foreign Government." I will say further to the Senator from Michigan that I think such statements are more often made not under oath than under oath; and those are the very statements that do influence the conduct of a foreign Government to the detriment of the Government of the United States. They are not statements made under oath.

Mr. OVERMAN. Mr. President, I think the Senator's suggestion, if adopted, would make the provision too broad. Statements made in a simple conversation or idle talk might render a man liable to indictment. This provision is intended to cover cases where a man swears absolutely to some fact rather than to include the case of a man who may casually talk about a matter. I think to do that and to say that we will indict that man on the ground that his remarks might tend to influence a foreign Government would be going a little too far.

Mr. STERLING. But, Mr. President, the statute sought to be enacted here requires that he shall have "knowledge or reason to believe" that the statement will "influence the measures or conduct of any foreign Government." It does not mean mere casual statements but statements made with a deliberate purpose and with a knowledge or belief that they will influence the conduct of a foreign Government.

Mr. WORKS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. WORKS. I was not here when this bill was under discussion yesterday, and I should like to know whether there is some particular chapter that is before the Senate now, or whether the bill is before the Senate generally.

The PRESIDING OFFICER. The entire substitute is before the Senate; the whole matter is before the Senate.

Mr. WORKS. I should like to address myself for just a few moments to chapter one, which, I think, calls for serious consideration. This is a time when the public mind is excited and inflamed and we are very likely to go too far in legislation of this kind. It is a time when, I think, we should be cautious, for we are likely to take away some of the liberties

and privileges of American citizens by legislation of this kind that I think ought not to be trespassed upon, and I want to call attention to the broad provisions of chapter 1. It provides in the beginning, in section 1:

SECTION 1. That (a) whoever, for the purpose of obtaining information respecting the national defense to which he is not lawfully entitled, approaches, goes upon, or enters, files over—

And so forth.

Now, there is no limitation upon that, except that he shall not be "lawfully entitled" to the information. I should like to know—and perhaps the acting chairman of the committee can tell me—who is regarded under that section as being lawfully entitled to secure information about the affairs of government, including its defenses. I think a subsequent section of the act tends to construe that particular provision, that is very loose in its terms, for in section 6 it is provided:

SEC. 6. The President of the United States shall have power to designate any place other than those set forth in paragraph (a) of section 1 hereof as a prohibited place for the purposes of this chapter, on the ground that information with respect thereto would be prejudicial to the national defense; he shall further have the power, on the aforesaid ground, to designate any matter, thing, or information belonging to the Government, or contained in the records or files of any of the executive departments, or of other Government offices, as information relating to the national defense, to which no person—

Now, mark the language—
(other than officers and employees of the United States duly authorized) shall be lawfully entitled within the meaning of this chapter.

Under those two provisions of the section no American citizen would have the right to make inquiry or seek information as to the condition of the defenses of the Government. It seems to me that is going a long way.

It will be noticed, Mr. President, that it is not required, in order to bring a citizen within the provisions of this act, that he should be seeking this information for any improper purpose or with any ulterior motive. The mere fact of a citizen of the United States seeking the information, even for the most innocent purposes, makes him a criminal under the provisions of this proposed substitute. This will be noticed with respect to all of the provisions contained in section 1.

As I have said, the first clause of the section that I have already read applies simply to obtaining information respecting the national defense, and further along, where there are additional acts prohibited, the clause is "contrary to the provisions of this chapter," and then there is the provision I have already read, which shows, I think, quite clearly that the President may on his own motion designate any place in the United States that he thinks the people of this country ought not to know about, and when he designates it, if any citizen undertakes to obtain any information with respect to it he becomes a criminal.

Of course, if this was intended to prohibit the securing of information for any improper purpose—for example, for the purpose of disclosing it to some foreign nation or to use it in any improper way—I should have no objection to it, and I think it would be entirely proper; but certainly, to my mind, it is going altogether too far to deny any American citizen the right to seek information for innocent purposes with respect to any portion of the Government and its condition.

I am only now briefly calling attention to objections which I think are pertinent to this particular chapter and to the particular section to which I have referred.

GEORGE W. LALAND.

Mr. BRADY. Mr. President, out of order I ask unanimous consent to make a report from the Committee on Military Affairs.

The PRESIDING OFFICER. The Senator from Idaho asks unanimous consent to make a report from the Committee on Military Affairs. Is there objection? The Chair hears none, and the report will be received.

Mr. BRADY. From the Committee on Military Affairs I report adversely the bill (H. R. 4360) for the relief of George W. Laland. I move that the bill be indefinitely postponed.

The PRESIDING OFFICER. The Senator from Idaho moves that House bill 4360, which he has reported adversely, be indefinitely postponed.

Mr. BRADY. I have another report to present, Mr. President.

Mr. OVERMAN. Mr. President, I am bound to object to morning business being introduced at this time.

The PRESIDING OFFICER. It is too late. The Senator did not object.

Mr. OVERMAN. I did not understand for what purpose the Senator had risen.

The PRESIDING OFFICER. The Chair asked if there was objection, and there was none.

Mr. PENROSE. Mr. President, I desire to offer an amendment to a pending appropriation bill.

The PRESIDING OFFICER. There is a matter pending before the Senate.

Mr. OVERMAN. I call for the regular order.

The PRESIDING OFFICER. The regular order is before the Senate.

Mr. OVERMAN. The regular order is the unfinished business. I did not understand the Senator to get unanimous consent to introduce morning business.

The PRESIDING OFFICER. The Chair understood unanimous consent was given, and the Senator from Idaho presented a report.

Mr. PENROSE. Does the Senator from North Carolina object to my presenting an amendment to the naval appropriation bill?

Mr. OVERMAN. I understand there is another matter before the Senate.

Mr. BRADY. Does the Senator from Pennsylvania object to my presenting the report?

The PRESIDING OFFICER. Let the Chair explain the situation. The Senator from Idaho asked unanimous consent to make a report. Unanimous consent was given. He has made the report. It is an adverse report, and he moves that the bill be indefinitely postponed. The question is on that motion.

The motion was agreed to.

Mr. BRADY. I desire to present another report.

Mr. OVERMAN. I object to any further business except the regular order.

The PRESIDING OFFICER. Is there objection to the other request of the Senator from Idaho. The Chair hears none.

Mr. OVERMAN. I objected to any more business being presented while the unfinished business is pending. I thought I had stated that.

The PRESIDING OFFICER. There is objection. The regular order will be proceeded with.

OFFENSES AGAINST THE GOVERNMENT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8148) to define and punish espionage.

Mr. CUMMINS. Mr. President, as I understand, this measure, consisting of a series of bills, is now before the Senate. It gets before the Senate and then disappears so quickly that I am never certain just what is under consideration. I have no great objection to any of the bills which have been incorporated in the pending measure save one. I think that the amendment which I proposed yesterday to certain of them, or an amendment of that general character, ought to be adopted; but my chief objection is to chapter 1, concerning which the Senator from California [Mr. WORKS] has just submitted some very pertinent observations. I defer offering the amendment which I have to propose to subsequent chapters, and which relates to the use by the President of the Army and Navy for the enforcement of our laws, until a later time, but, in order that those Senators who are here may be apprised of the character of the amendment I shall offer, I ought to read it, having changed its phraseology somewhat as compared with the amendment I offered yesterday. I intend to offer finally to section 8 of chapter 9, page 24, the following addition:

Provided, That without the further authority of Congress such armed force shall not be used beyond the territorial limits of the United States to commit an act of war against a nation with which the United States is then at peace.

I mention the subject now, for I believe that it well deserves some thought on the part of the Senate; and I hope that before we reach that part of the bill those who think that we ought not to abdicate and surrender the power of Congress in this regard to the Chief Executive will give the matter attention. I call now to the minds of Senators chapter 1.

Mr. CLAPP. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I yield.

Mr. CLAPP. Mr. President, in connection with the proposed amendment I simply want to suggest to the Senator—I am in harmony with the purpose and spirit of his position—if cases ought not to be excepted from it where the act occurred in consequence of some act within our territorial limits that necessarily resulted in pursuit. I will not press it now. I just make the suggestion for later consideration; that is all.

Mr. CUMMINS. The suggestion made is worthy of consideration. Possibly I have not phrased it as carefully as it should be phrased, but it expresses my general idea with regard to the use of the Army and the Navy in time of peace by the President.

Mr. President, we have just been manifesting great solicitude for the citizens of Porto Rico. I think that the interest which the Senate has indicated in preserving to the citizens of that island some of the rights and privileges of people of free countries is very praiseworthy, and I sincerely hope that, as the Senate comes to examine chapter 1 of this bill, its Members will feel the same concern with regard to the rights and privileges of citizens of the United States residing in continental North America.

I want it clearly understood that I am not approaching an analysis of this question from the standpoint of an extreme pacifist. I believe in adequate preparation against invasion. I believe in an army and a navy that will and can protect the shores of this country from every enemy in the world.

Mr. BORAH. Mr. President, may I interrupt the Senator to ask at what particular point that amendment goes in?

Mr. CUMMINS. The one that I mentioned a few minutes ago?

Mr. BORAH. The one that the Senator just read.

Mr. CUMMINS. It is added to section 8, on page 24.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I yield.

Mr. WORKS. I think that in this connection it ought to be borne in mind that the provisions of chapter 1 are not confined to time of war at all, but extend to a time of peace.

Mr. CUMMINS. That is one of the first things that I intended to say when I reached that part of my address.

I do not want to be accused of any lukewarmness in the national defense, although I may differ from some of my associates with respect to the measure of defense necessary to successfully protect this country against inroads or aggressions from abroad. I desire it to be also understood that in time of war I have no desire to restrict the power of the Commander in Chief of our Army and our Navy. I am quite willing that in the territory in which martial law is declared the civil rights of citizens shall, for the time, be subordinate; but I am unwilling that, in time of peace, the privileges and safeguards of the people of the United States which have been regarded through all the ages as necessary to the protection of the people in a free country shall be repealed or withdrawn. I am unwilling that a great number of new and strange offenses shall be created which will draw within themselves a large part of the population of a country which indulges in free speech and free thought, when not necessary to protect either the territory or the honor of the Republic.

Even in time of war the district which would probably be covered by martial law is small in proportion to that part which will be amenable to the civil laws, and in which the ordinary business of American citizens will be carried on, I hope, in the ordinary way. I intend to analyze this chapter a little more fully than did the Senator from California. If I believed that it was necessary to create a proper national defense, to pass laws of this sort, I would rather go unprepared into the conflict than to subject the people of this country to the dangers, the menace, contained in such legislation.

Let us see. I am confining myself now to chapter 1, and I direct your attention to section 1 of chapter 1. There are two things to be remembered in considering it. First, as stated by the Senator from California [Mr. WORKS], it governs us in peace as well as in war. Now, that is not true of the entire chapter. There are some paragraphs of the chapter which are applicable only in time of war; but this particular section of the chapter, section 1, would be in force in times of the profoundest peace.

Second—and I hope those who are here will remember that what I am now saying applies to every provision of section 1—it is not required to be shown that the offender intended either to injure his own country in any degree, or that he intended to aid or abet another country in any degree, whether that other country at the time is at peace or in war.

With those two thoughts or bases in mind, I begin to read section 1:

That (a) whoever, for the purpose of obtaining information respecting the national defense—

My first inquiry is this: What is the national defense? Those words are not defined; they are in no wise qualified or restricted; and the first question that must be answered in determining whether or not a citizen is guilty of the offense of this paragraph is, Is he attempting to obtain information respecting the national defense?

We have had a good deal of discussion in recent months about the national defense, and I should like to know—I am not asking for an answer just at this moment—the views of Sena-

tors with regard to the meaning of that term. Is it confined to the Army and the Navy? Evidently not, for it is universally agreed that it extends to all manufactories engaged in producing arms and munitions of war. But is it confined to manufactories engaged in producing the things that are directly used in war, or is it to be extended to every national energy which makes up an adequate and effective national defense?

I have heard it applied, and so have you, to agriculture. It is said that it is necessary to make stable, permanent, and general the development of our fields in order that in time of war our armies may be successfully sustained, or our citizens adequately fed. I have heard it applied to schools, because it is alleged that we can not create an adequate national defense unless we have cultivated the heart and the mind. I do not believe it will be asserted here that the words "national defense" do extend to these things, but no one can tell to what they extend. They may mean, I suppose, anything that is necessary in order successfully to defend ourselves against an enemy or successfully to attack an enemy, if attack is the approved method of defense at any given time. I should think that it would include everything from the mines and the forests which ultimately pass into the structures or the arms that are used in war, no matter whether they are used immediately in battle, or whether they are used in general connection with the Army or the Navy.

I ask Senators to observe, second, that this information respecting the national defense is forbidden to every person not lawfully entitled to it.

Mr. WALSH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I yield to the Senator.

Mr. WALSH. I think a very erroneous idea is to be gathered from the statement of the Senator and from the comments that he has been making about this matter. It is not necessary, in my estimation, closely to define what is meant by "national defense" here; and the bill does not make criminal, as might seem to be gathered from the remarks of the Senator, the gathering of information about the national defense. The remark concerning national defense is in the nature of inducement. There are certain acts denounced by the bill, namely—

Mr. CUMMINS. I have not reached that part of my argument yet, but I will approach it in a moment.

Mr. WALSH. But the point I was making was that it was to be gathered from the remarks of the Senator that the bill made criminal the gathering of information concerning the national defense.

Mr. CUMMINS. I said that was one of the elements of the crime. The person must be endeavoring to obtain information respecting the national defense; and when you have proved that the person who is arraigned or under charge has obtained information respecting the national defense, you have proved the first thing necessary to be established in order to constitute the crime.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I yield to the Senator from California.

Mr. WORKS. It seems to me that the only other element necessary to constitute the crime under this section is that he should not be lawfully entitled to that information. According to my construction of this and another section of the bill, as I suggested a while ago, nobody would be lawfully entitled to any information relating to the national defense except the officers having that matter directly in charge. If that be so, no American citizen has the right to inquire at all into the national defense of the country, and therefore no right or authority to investigate or to inquire into the conduct of the officers who have that matter in charge.

Mr. CUMMINS. Mr. President—

Mr. WALSH. Mr. President, if the Senator will pardon me—

The PRESIDING OFFICER. Does the Senator from Iowa further yield to the Senator from Montana?

Mr. CUMMINS. I am just about to pass on to the subject mentioned by the Senator from California.

Mr. WALSH. I was merely desirous of remarking that it occurs to me that the thing is turned around. When the prosecuting attorney goes to make a case ordinarily, he proves the act first, and the intent afterwards. The act is defined here, The national-defense business refers simply to the intent with which the act is done.

Mr. CUMMINS. Mr. President, I am not trying to arrange the order of the testimony that would be brought in upon the trial of one charged with a crime under this paragraph. I am

simply endeavoring to state the elements of the crime, and who would be subjected to the penalty of the law if its provisions were carried out.

I resume where I was interrupted.

The next inquiry, after ascertaining whether the information is sought respecting the national defense, is, Was the information sought by one lawfully entitled to it? Now, I restate the inquiry of the Senator from California [Mr. WORKS]. Who is lawfully entitled to information respecting the national defense? We have no statute prescribing who is entitled to such information. There is no common law determining who is entitled to such information, and I do not know whether all the officers of the Army would be entitled to it, or the officers of the Navy. I do not know whether anybody but the Commander in Chief would be entitled to it. I fancy that in time of war, under some circumstances, no one but the commanding officer is entitled to information that might imperil the force under his command if it were to be disclosed.

Whoever drew those words or whoever is responsible for those words, as it seems to me, does not understand American liberty at all, and has no sympathy with our institutions. He is imagining that we have returned to a time when the citizens of the country are to be kept in absolute ignorance of all public matters pertaining to the national defense. I am not authorized, of course, to say what was in the mind of the draftsman of this bill. It came from the office of the Attorney General. The Judiciary Committee had very little to do with it. I do not mean by that to disparage the action of the Judiciary Committee; for if a majority of the Judiciary Committee had really considered this bill from the usual standpoint, if it had emanated from a member of the Judiciary Committee or any Member of the Senate, and the committee had maturely and intelligently reflected upon it, its action would have great weight with me, and I have no doubt would have equal weight with all the Members of Congress.

Mr. OVERMAN. Mr. President—

Mr. CUMMINS. Just a moment. Now, I do not mean to say that it does not express the conviction of the members of the Judiciary Committee who joined in the report. I assume that it does; but what I do mean to say is that it is not the product of any Member of the Senate, and was received by the Judiciary Committee with the authority passing with it that we all recognize in so learned and so influential a department of the Government as the Department of Justice.

I now yield to the Senator from North Carolina.

Mr. OVERMAN. Mr. President, I am sorry the Senator from Iowa did not attend our meetings. If he had, he would have found that this bill, of all bills, was maturely considered. It was more maturely considered than any other bill we had before us. He also knows that this is a substitute for the bill sent down by the Attorney General. It has been amended in many particulars, and when it is said that this bill was not considered I have to say to the Senator that it was considered more than any other bill.

We had the benefit of the Senator's great ability and advice in regard to some of these bills. I am sorry he was not there when this one was considered; but if he had attended the meetings he would have found that we considered this particular bill for nearly a week.

Mr. CUMMINS. Mr. President, I did not say that it was not considered. I said it was not considered in the way it would have been if it had emanated from another source, namely, a legislative instead of an executive source. I do not believe in that practice, and everybody knows that. I have repeated it so often that my opinion gains no weight by repeating it again.

I was present when this bill was considered originally, and, as I recall, the only material amendment was one made because I objected to a part of the bill, and with all deference to the members of the committee the amendment seems to me to make it worse than it was originally. But however that may be, to me it is simply inconceivable that the Judiciary Committee, free from any influence of an executive character, and free from the fear which grows out of the approaching war, would report a bill of this character, for I have already said, and I challenge an answer to it when the time comes, that you can not describe the national defense so that any citizen can tell whether, when he is trying to secure information, he is beginning the commission of a crime or not. You can not tell who is lawfully entitled to information concerning the national defense. We have neither custom nor statute which will inform the citizens of the country upon that subject. I can see no reason why it could not be held that all the citizens of the country, Members of Congress as well as those in private life, were not lawfully entitled to information concerning the national defense, and I ask the Senator from North Carolina if he is entitled to information concerning the

national defense, where did he get the authority? Much less would any private citizen be entitled to information concerning the national defense.

Bearing these things in mind, I pass on to a further part of this paragraph, and I am going over it paragraph by paragraph; and if it were not for the deep respect which I feel for every member of the Judiciary Committee I should characterize this part of the bill as monstrous.

Mr. WORKS. Before the Senator leaves that subject, I understand the Senator to say that no private citizen has any lawful right to obtain information of this kind. Does the Senator mean that?

Mr. CUMMINS. No; I did not mean it in that sense. What I meant is that no private citizen can trace his title to information concerning the national defense to any statute or to any custom that has the force of law. I believe that every private citizen has a right to information concerning the national defense, but I do not know how a court would construe that language.

Mr. WORKS. That is precisely what I wanted to suggest to the Senator. The serious objection that I make to this bill in that respect is that the object and purpose of it is to deny to the American citizen the right to make any inquiry or to get any information respecting the national defense.

Mr. CUMMINS. If I were construing the words that I have been discussing I would say the idea is that the authority on the part of anyone to receive information concerning the national defense must come from the President of the United States, the commander of our armed forces. I proceed:

That whoever, (a) for the purpose of obtaining information respecting the national defense to which he is not lawfully entitled, approaches—

Mark that word, if he "approaches"; remember its significance as I read further—

goes upon, or enters, flies over, or induces or aids another to approach, go upon, enter, or fly over any vessel, aircraft, work of defense, navy yard, naval station, submarine base, coaling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, or other place connected with the national defense—

Again, we have a description which is so vague and uncertain that no citizen ought to be subjected to a criminal prosecution because he was unable to determine what place is connected with the national defense. I proceed—

owned or constructed, or in progress of construction by the United States, or under the control of the United States, or of any of its officers or agents, or within the exclusive jurisdiction of the United States, or any place—

Now, mark you—

or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, or stored under any contract or agreement with the United States, or with any person on behalf of the United States, or otherwise on behalf of the United States.

I pause there. The Government arsenals and dockyards and ships and forts are fairly definite. They belong to the Government; and I suppose if the President wants to exclude every person from their limits he has a right to do it, at least I will not quarrel with that authority on his part. But a large part of our armament is constructed under contract with various companies. We are building battleships now under contract in a private yard, and if a citizen were to approach a private shipyard at Newport News or at Fore River in order to secure information respecting a ship being built in such a yard, no matter how innocent he might be in his intent, no matter whether he intends to use the information for any purpose that could be prejudicial to our country, he becomes a criminal.

I venture to say, and I will prove it before I get through, if this chapter had been the law for the last 10 years one-half of the intelligent people of the United States could have been sent to the penitentiary for varying periods, from 3 to 30 years. I myself have violated the provisions of this proposed statute during the last two years scores of times, and I think the Senator from North Carolina has been equally guilty, and I think it is greatly to his credit that he has been guilty of doing the things that are forbidden by this chapter.

Remember now, it is any approach to any manufactory in which anything is being manufactured for the Government or made for the Government. A man who approached the Bethlehem Steel Works or the Midvale Steel Works or the United States Steel Corporation works, in some of its plants, I assume, in order to get information, without regard to the purpose for which he intended to use it, would at once become a violator of this law.

I am not asserting that this administration would use the law to vex the good citizens of the United States, but I am not willing to give any officer the power when occasion may seem to

require it to subject the people of the country to any such penalties as are here prescribed, or to turn innocence into crime in a way that shocks the moral sense of every man who fairly grasps and comprehends what we are here attempting to do.

But I have not yet reached the climax of this particular paragraph. We have now seen that if anyone approaches any of these things, forts, docks, arsenals, boats, yards, railroads or other property over which the United States is said to exercise an exclusive control, if he approaches any manufactory or yard where something is being made for the Government, he becomes at once subject to the operation of this statute.

But as hard and as unnecessary as any such provisions may be, that is not the worst of it. We have attempted to describe here in a legislative way the prohibition, and there is a little something to guide the citizen in his activities. But now we have the concluding clause:

Or any prohibited place within the meaning of section 6 of this chapter.

That is, whoever approaches for the purpose of obtaining information respecting the national defense any place prohibited, or that may be prohibited, under the provisions of section 6 of this chapter becomes a criminal and may be prosecuted. Let us see what section 6 is. Section 6 begins in this way:

The President of the United States shall have power to designate any place—

In time of peace, now; not of war. We may be pursuing our way in all the quietude that has characterized us for the last 30 or 40 years, yet it is declared that—

The President of the United States shall have power to designate any place other than those set forth in paragraph (a) of section 1 hereof as a prohibited place for the purposes of this chapter, on the ground—

Now, mark you how he is absolutely unlimited in his selection—

on the ground that information with respect thereto would be prejudicial to the national defense; he shall further have the power, on the aforesaid ground, to designate any matter, thing, or information belonging to the Government, or contained in the records or files of any of the executive departments, or of other Government offices, as information relating to the national defense, to which no person (other than officers and employees of the United States duly authorized)—

They must not only be officers of the United States but they must be duly authorized in addition—

shall be lawfully entitled within the meaning of this chapter.

I know very well it was not intended by the person who drew the bill, but under that provision the President of the United States could say that what transpires in this Chamber shall not be made public if it concerns the national defense. He can padlock the lips of every man in America respecting the national defense.

It is hard for me to be temperate when I am discussing a provision of that sort. Of course, there is no man who values the privileges of the American citizen more than the Senator from North Carolina, and I am sure that he is now thinking to himself that no President would ever execute the law in this way. That may be so; but all our laws, or a great many of them, are intended to prevent the abuse of power, to prevent a man without conscience and a man without respect for such institutions as ours to override the rights of a citizen. I shall look with great interest to the answer of my friend from North Carolina when he comes to explain the extent of the President's power in designating any place other than those set forth in paragraph (a) on the ground that information with respect thereto would be prejudicial to the national defense, and I shall look forward with keen curiosity to his exposition of these words:

He shall further have the power, on the aforesaid ground, to designate any matter, thing, or information belonging to the Government, or contained in the records or files of any of the executive departments, or of other Government offices, as information relating to the national defense, to which no person (other than officers and employees of the United States duly authorized) shall be lawfully entitled within the meaning of this chapter.

Mr. President, I have now finished my comment upon paragraph a. It is an extraordinary proposal. If the Senate can persuade itself that it is necessary to enact such legislation as that in order, I assume, to prevent some information which ought to be confidential and confined to our own country from creeping abroad in times of peace, then I shall conclude that it has lost its regard for the liberties of citizens which have been won not only upon many a hard-fought battle field but won in many a contest in the Senate of the United States.

I pass now to paragraph (b) of the chapter—

or (b) Whoever, for the purpose aforesaid—

Now, what is the purpose aforesaid? The purpose aforesaid is to obtain information respecting the national defense. That is the entire purpose. The acquisition of information concerning the national defense—

or (b) Whoever, for the purpose aforesaid, and without lawful authority, copies, takes, makes, or obtains, or attempts, or induces or aids

another to copy, take, make, or obtain, any sketch, photograph, photographic negative, blue print, plan, model, instrument, appliance, document, writing, or note of anything connected with the national defense—

I wonder if Senators will pause long enough in these busy hours to analyze that paragraph and attempt to apply it to the things to which by its very terms it is applicable. It applies to anyone desiring any information concerning the national defense. We have already, I think, apprehended some of the difficulties that are in our way in determining what the national defense is—

and without lawful authority—

Again, I ask, who has lawful authority to make a copy of any of the things which I have mentioned and to which I shall again direct your attention—

copy, take, make, or obtain any sketch, photograph, photographic negative, blue print, plan, model, instrument, appliance, document, writing—

I pause there. Any writing connected with the defense. You attempt to make it criminal for any man in this country without some lawful authority, the character of which I do not know and which you can not define, to make a copy of any writing connected with the national defense, or any "document."

Mr. President, I said a few moments ago that if this law had been enforced for the last two years more than half the intelligent reading people of the United States would have been in the penitentiary if the law had been put into execution against them. How many of our people have without lawful authority, or such authority as is contemplated here, copied some writing connected with the national defense? We have all done it here over and over again. I know that was not in the mind of the person who drew this bill, and I am sure it was not the intent of the members of the Judiciary Committee, but the difficulty is that in endeavoring to reach one man who is guilty you have drawn within the operation of the law thousands of men who are not guilty of any moral offense, and you can not convert these liberties of the people of this country concerning their own affairs into crimes by merely reciting these offenses in a statute.

Mr. NELSON. May I ask the Senator a question?

The PRESIDING OFFICER (Mr. KIRBY in the chair). Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. Certainly.

Mr. NELSON. Does the Senator believe we ought to have any legislation in reference to the subjects referred to in this bill, or is he utterly opposed to any legislation bearing on these matters?

Mr. CUMMINS. Mr. President, I think there are some subjects—

Mr. NELSON. And if he is—

Mr. CUMMINS. Now, wait until I answer your question.

Mr. NELSON. Yes; answer it.

Mr. CUMMINS. I am not opposed to legislation on these subjects.

Mr. NELSON. Will the Senator suggest something better than this?

Mr. CUMMINS. Just a moment. No one can suggest anything worse; and I am now speaking of chapter 1, of course. I am not speaking of the 10, 11, or 12 pages which have been designated as chapters 2, 3, 4, and so on. I am speaking of chapter 1.

It is not an answer, Mr. President, to what I have said for the Senator from Minnesota to ask me whether I can present something better. Impulsively I answered him that any substitute for this chapter would be better. I did not mean any disparagement by that statement, but I invite the Senator from Minnesota and the Senator from North Carolina, when the time comes, to reply to what I am saying with regard to the scope and the operation of these paragraphs. I am as anxious as either of them can be to prevent the revelation, if you please, in a time of war to an enemy or to a foreign country of things that are connected with the movements of our Army and our Navy. But I am not willing in order to bring about that state of efficiency, if it be a state of efficiency, to close the mouths of the hundred million of American people upon all subjects at all times relating to the national defense. I think that if we must allow this one man, however unfortunate it may be, to go unpunished in order that these millions may preserve the liberties which they have acquired through long and arduous labors, we had better allow the one man to go unpunished. But I see no reason for permitting that. It is not hard, I am sure, to prescribe the terms of a statute which will punish any man who attempts to reveal to an enemy or even to a foreign country or who gathers information for the purpose of revealing to an enemy or a foreign country information that ought to be con-

fined to American shores. But it is not necessary to spread a net of this kind in order to catch a fish of that kind.

Mr. NELSON. Mr. President—

Mr. CUMMINS. I yield to the Senator.

Mr. NELSON. I want to call the Senator's attention to how utterly futile it would be to put in clauses requiring the information to be given to a foreign country. What we suffered from during the Civil War more than anything else was the fact that our newspapers contained full information as to the number of troops, their location, the movement of the troops, and everything. The newspapers did not do it with an evil intent. They did it for the purpose of selling their newspapers, getting a market for purveying the news to the American people, and yet it was one of the greatest evils that we had to contend with during the Civil War.

Now, if the Senator will allow me, I want to add one further word to what he said a moment ago. He said the President may designate some other place. Let me point out what that means. Suppose in an actual war we had to establish a new submarine base somewhere immediately, a new point. It may be necessary for the President to designate it. We need in this new method of warfare new places to store our supplies for our submarine works, and hence it is necessary to give the President some power.

Mr. CUMMINS. I have no objection to giving the President some power, and the power that has just been described by the Senator from Minnesota. But it seems utterly impossible for me to so express myself that the Senator from Minnesota will understand that in reaching an instance of that kind it is not necessary to extend the crime to every person who may seek to obtain information concerning the national defense.

My second answer to the statement just made is this: He is thinking of a time of war. I will come to the newspaper paragraph presently. It is a most interesting paragraph, but I have not reached it yet. I am not dealing with newspapers or the harm that they did the country in the Civil War. There are some observations to be made upon that subject. But I remind the Senator from Minnesota that this chapter, in so far as I have been considering it up to this time, is not confined to a time of war. It is just as effective in a time of peace as in war.

The Senator from Minnesota may not have been here in the early part of my analysis during which I said that when war comes, when martial law must supersede civil law, when the Commander in Chief of the Armies and Navies must be the supreme arbiter of the liberties of the citizen, then I have no disposition to limit the power of the Commander in Chief, but I have great objection to giving the Commander in Chief of our Army and Navy the absolute disposition of the liberties of the people during times of peace.

Mr. NELSON. Mr. President, will the Senator allow me to make a suggestion?

Mr. CUMMINS. I will be glad to yield.

Mr. NELSON. The Senator can readily see if you limit this to an actual state of war how utterly futile it will be. I can not help referring to a concrete case. Take the case between France and Germany. For years before the present war broke out Germany carried on a system of espionage in France. The whole country was subject to it. They had maps of every bit of the country. They had diagrams and blue prints of all the fortifications. They had even gone so far in Belgium as to build concrete foundations for their big guns. In cases of that kind, Mr. President, I insist that it is necessary to provide against these things before the outbreak of actual war. If you wait until then it may be too late. The countries we are liable to get into war with will long before the war breaks out have carried on a system by which they will have acquired full information as to our fortifications, our shipyards, and all our naval and military appliances, and secured it before the outbreak of the war.

Now, it is to prevent that as much as in reference to what may occur during actual war that it is necessary to legislate. I want to remind the Senator that while there are some expressions perhaps in the bill that may seem a little too drastic, yet I hold that when the safety of the country is at stake the rights of the individual must be subrogated to the great right of maintaining the integrity and welfare of the Nation.

Mr. CUMMINS. The Senator from Minnesota seems to think that this is necessary for the safety of the United States. I do not; nor do I think we have a Nation worth saving if this is necessary. If the power that is here sought to be given to the Executive, coupled with these offenses that are for the first time prescribed in American life, are necessary, I doubt whether the Nation could be preserved.

Mr. NELSON. Mr. President—

Mr. CUMMINS. Just a moment.

Mr. NELSON. I will not interrupt the Senator.

Mr. CUMMINS. Allow me to continue for a few moments. When I have finished this thought I shall then be ready to yield.

The Senator from Minnesota has disclosed the real purpose of the proposed statute, or the part of it which I have been reading. I assume that it is well known, and generally accepted, that Germany had pretty thorough information regarding France; I assume that it is fairly well accepted that France had pretty thorough information regarding Germany; and that England had pretty fair information regarding both countries. I have an idea that maps of the United States are in all the capitals of Europe. I do not know, but I presume that Europe understands about how many men we have authorized to make up our Army; about how many ships we have authorized. I have been told, although I have no way of verifying it, that all the foreign countries have people here all the time trying to acquire whatever information they can relative to our country and its armament. If the Senator from Minnesota has any idea that we can build around the United States a Chinese wall so high that no information concerning our national defense can creep through it, or fly over it, he is doomed to disappointment.

The United States, in common with all other countries, has grown very close to even those powers which are farthest removed; we are close to them; and if the Senator means to assert that, in order to prevent this information from getting to Germany or Great Britain or France or Japan, I must be prevented from knowing anything about it, I resent the enactment of the statute.

Mr. NELSON. Mr. President, will the Senator allow me to interrupt him?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do not want to carry on a debate with the Senator pending my remarks, though I am glad to hear the Senator.

Mr. NELSON. I want to say one thing I omitted to say before, and that is that I have no doubt to-day—

The PRESIDING OFFICER. The Chair understands that the Senator from Iowa declines to yield for an interruption.

Mr. CUMMINS. No; I yield to the Senator from Minnesota, so far as I may properly do so.

Mr. NELSON. What I desire to say and what I neglected to say before was that I have no doubt to-day that all the great powers in Europe have complete information as to our naval and military strength, as to our ships of war, our munition factories, our naval bases, our navy yards, and everything else that pertains to the national defense; they also have maps of our country; so I think that any one of those countries, if they intended to invade this country, would be as well informed as are our own people where to land an army to attack us. It is to prevent information being improperly secured that this statute is intended. I admit what the Senator says, that it is utterly impossible to exclude every such attempt, but we certainly ought to do something to protect the Nation against such dangers and such emergencies. That is all for which I am contending.

Mr. CUMMINS. Mr. President, I am sure that the Senator from Minnesota and myself are in absolute harmony with regard to the general purpose; but the difficulty is that he thinks in order to accomplish that purpose it is necessary to manacle all the people of the United States; that it is necessary to withdraw all the people of the United States from any information respecting the national defense, fearing that some part of it may finally be brought to the attention of the enemy.

You can not make a law, Mr. President, too severe for me aimed at the acquisition of information concerning our Army and Navy and military armament intended to be revealed to an enemy or even intended to be disclosed to a foreign country; I shall make no opposition to any such proposition as that; but when, in order to reach a person who has such an intent, you find it necessary to say to me that I can not know anything about our ships and our armies and our docks and our munition factories and our fields and our forests, all of which are related to the national defense, then you are trampling upon a right that is infinitely more important to be preserved than it is to preserve our secrets from a foreign country.

Mr. OVERMAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. I do.

Mr. OVERMAN. It is whenever you go for the purpose of getting information to which you are not entitled that this bill proposes to punish you. It does not propose to punish generally the American people for the acquisition of information, but it says, whenever an American citizen goes for the purpose—those are the words—of obtaining information to which he is not

lawfully entitled, then he is guilty. The Senator from Iowa makes it too general when he says all the people of the United States are forbidden. It is only when they attempt to secure such information for an unlawful purpose that this proposed statute would apply.

Mr. CUMMINS. That is it, Mr. President. The Senator from North Carolina has, with his fine instinct for what is right, really inserted the word that ought to be in this proposed statute. If I desire to secure information for an unlawful purpose, I ought to be punished; but what is an "unlawful purpose"? The Senator from North Carolina says that if I attempt to secure information respecting the national defense without lawful authority. But have I lawful authority to acquire information or to approach any of these places in order to secure information respecting the national defense? Assuming now that my only purpose is to make myself a more efficient guardian of the national defense, have I a lawful authority; and if so, where did I get it?

Mr. OVERMAN. What right have you as an American citizen to go upon the premises of an arsenal to obtain the secrets of the Government without lawful authority? I do not think any citizen has such authority, and it shows an unlawful purpose when he does it.

Mr. CUMMINS. Precisely.

Mr. OVERMAN. If he goes there for that purpose and obtains the secrets of the Government or of the national defense—

Mr. CUMMINS. This provision says nothing about "secrets."

Mr. OVERMAN. But that is what it means.

Mr. CUMMINS. That word is not in it. It says whoever, with the purpose of securing information respecting the national defense—not goes upon—for, again using myself as an illustration, they may close the doors against me, I assume, and I could not go upon these sacred governmental inclosures; but this proposed law says whoever, for the purpose of securing information respecting the national defense, approaches any of these places shall be punished. How near must he approach? If I walk down to the banks of the Potomac River in order to see the *Mayflower*—it is a part of our national defense, I understand—

Mr. SMITH of Michigan. Or to Fortress Monroe.

Mr. CUMMINS. And I may have a great curiosity to know in just what way the *Mayflower* is being used in order to protect the country against our enemies—if I approach the banks of the Potomac River in order to look upon this triumph of naval architecture, this home of pleasure, I would make myself a criminal. I know the Senator from North Carolina, if he were a prosecuting officer, would not attempt to convict me for that offense; but I, nevertheless, would have committed the offense described in this statute.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I yield to the Senator from Utah with pleasure.

Mr. SUTHERLAND. I do not want the Senator to yield to me reluctantly.

Mr. CUMMINS. No; I yield to the Senator because I know the Senator from Utah will, if there is any merit in this thing, disclose it. So I yield.

Mr. SUTHERLAND. I did not arise particularly for the purpose of disclosing the merits of the proposition, but I wanted to get the view of the Senator from Iowa with reference to a phase of the matter.

The Senator says that if he walked down to see the *Mayflower* for the purpose of seeing what sort of a ship it was, under this proposed statute he would be guilty of a criminal offense. The Senator would not be guilty of a criminal offense in doing that, even if this proposed statute were passed, because his going down there and seeing the *Mayflower* would not be forbidden. Therefore he would be lawfully entitled to do so. The phrase "lawfully entitled" means nothing more and nothing less than that the particular information must have been forbidden, not necessarily by an act of Congress; because in dealing with military matters the President has very great power. The President is made, by the Constitution, the Commander in Chief of the Army and Navy, and under that authority the President himself, or the Secretary of the Navy or the Secretary of War, discharging part of the duties of the President, as his agent, may make regulations that people shall not go into forts; that they shall not visit battleships under certain circumstances; that they shall not do this, that, or the other in connection with the national defense.

It seems to me that the proper construction of this language is simply that the citizen would have a right to visit these places to seek this information, unless it was of a character that had been forbidden by some regulation of the War Department or order or by some act of Congress. I know there are regulations which do forbid one going into certain fortifications and obtaining certain information; and the President, as Commander in Chief of the Army and Navy, may extend those regulations from time to time. If he does so, a citizen who undertakes to obtain information in violation of those regulations is undertaking to get something to which he is not lawfully entitled; but in the absence of prohibition he is lawfully entitled to such information, and he may go.

Mr. CUMMINS. Mr. President, a very large part of my objection to these particular paragraphs of this chapter would disappear if the Senator from Utah had written the law and had expressed in the measure the thought which he has just given to the Senate. There would then be some safety remaining, and there would be some privileges left.

If we would undertake now to prescribe the information that the ordinary citizen may lawfully secure concerning our national defense, I would have no difficulty, then, at least in understanding what we might do, or if we were to confine it to time of war and say that the President shall have the authority to prevent the approach of any person to any place that he may designate, I would understand that; but that would be tolerable only in time of war and would not be admitted in time of peace. That, however, is not the proposed statute.

The Senator from Utah [Mr. SUTHERLAND] has given a fanciful explanation and a fanciful definition of the words "lawfully entitled." There is nothing in our statutes or in our customs, as I have already remarked more than once, that will enable us to determine to what part of the knowledge concerning our national defense the individual citizen is entitled.

There is another paragraph in the chapter which relates to the power of the President to suppress newspapers, and I think that the remarks of the Senator from Utah are especially applicable to that paragraph.

I proceed with my analysis. I have discussed the paragraphs (a) and (b). The next is (c), which reads as follows:

Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to induce or aids another to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reasonable ground to believe, at the time he receives or obtains, or agrees or attempts to induce or aids another to receive or obtain it, that it has been or will be obtained, taken, made or disposed of by any person contrary to the provisions of this chapter.

I would have little objection to that paragraph if paragraphs (a) and (b) were eliminated from the chapter; but it can not certainly be insisted that anyone who receives from another person any plan or copy or note or anything else pertaining to the national defense, knowing or having reason to believe that that person had acquired the information in the ordinary, usual way by which people get information in our land, should be sent to the penitentiary. It simply emphasizes and intensifies the objection to paragraph (b).

Paragraph (d) provides—

Whoever, lawfully or unlawfully having possession of, access to, control over, or being intrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, model, instrument, appliance, note, or information relating to the national defense, willfully communicates or transmits or attempts to communicate or transmit the same to any person not lawfully entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it.

That simply means, assuming that we retain paragraph (a), that if I have obtained information for which I have received no authority I can not discuss it with my friend or my neighbor nor give him a copy of any writing or the substance of any information which I have received and which relates to the national defense. Of course this is subject to the same objection that I have already made with regard to paragraphs (a) and (b).

Paragraph (e) is as follows:

Whoever, being intrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, model, note, or information relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed.

Mr. President, I do not believe that we have reached a time when if a clerk in a department loses some record or note he ought to be punished by two years in the penitentiary and a

\$10,000 fine. We are going a great way when we attempt to punish gross negligence, assuming that the gross negligence has not resulted in any harm or injury to the country.

Mr. NELSON. Mr. President, will the Senator allow me to interrupt him?

Mr. CUMMINS. I yield.

Mr. NELSON. That is intended to meet such a case as occurred within a year or two at San Francisco. A naval officer who was intrusted with our naval code book, through his negligence, lost it—laid it aside. The result was that the code book fell into the hands of another Government and our Government has been compelled to prepare a new code.

Mr. CUMMINS. I have been told that was the instance which suggested this provision; but because an officer in the Navy lost a code book, which fell into the hands of another Government, are we to punish every officer or clerk or employee who may lose some writing or note? It may be that it is a very immaterial writing or note; but if he loses it, even though it can be reproduced, even though it may not have been communicated to an enemy, and, even if communicated, could do us no injury whatever, he may be prosecuted and sent to the penitentiary for two years and be fined \$10,000.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to further interruption?

Mr. CUMMINS. I yield to the Senator from Utah.

Mr. SUTHERLAND. Of course, that is qualified by the provision that it must have been lost or stolen through gross negligence—not negligence merely, but gross negligence—and, as the Senator knows, gross negligence is something which falls just a little short of being willful. We do punish people criminally for gross negligence.

Mr. CUMMINS. Never; unless the negligence does some harm.

Mr. SUTHERLAND. The Senator says "unless the negligence does some harm." I am not so sure about that, although no offense of that kind occurs to me at the moment; but under the laws of some of the States we punish criminally a man who is negligent in operating an automobile and runs into a pedestrian, and we punish him for a form of manslaughter if somebody is killed.

Mr. CUMMINS. But suppose no one is killed?

Mr. SUTHERLAND. It is not because he has willed that the thing shall be done but because he has been grossly negligent about it. Whether gross negligence, would exist in any particular case, of course, would depend upon the circumstances of that case. If, for example, the note was of such character as the Senator has just described, of no particular consequence, care in looking after it would not be required to be so great; in other words, what would be gross negligence in losing an important document which was of great value to the national defense would not be gross negligence in the case of a matter of no particular concern. The whole matter is under the control of the court and jury to deal justly in the particular case, and, moreover, it is under the further control of the judge when he comes to impose sentence. He is not obliged to impose two years' sentence; he may impose but a day's sentence.

Mr. CUMMINS. I am very glad that the bill permits the court and jury to intervene between these offenses and the people. I really wonder that there was not a more summary method of trial provided. But, replying to the Senator from Utah, I have no objection to making gross negligence an offense. I assume that there are times when gross negligence ought to be punished with death. There are a great many such offenses in time of war, I understand; and, if gross negligence of an employee or anybody else entitled to the possession of any of these things results in harm to the Government, I think, then, he might be punished, but to say that gross negligence resulting in the loss of an instrument of any kind that has caused no one any injury and that has brought no harm to the country seems to me to be going a very long way.

I pass now to paragraph (f); and this is really remarkable. Whether any other Government in the world ever proposed anything of this sort I do not know. Possibly the Senator from North Carolina will be able to tell the Senate whether other Governments have found it necessary to legislate upon this subject; and if so, when the legislation took place:

(f) Whoever, within the United States, sends by post or otherwise any letter or other document containing any matter written in any medium which is not visible unless subjected to heat, chemicals, or some other treatment shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both.

It will be observed that the offense is sending through the mails or otherwise any communication written in invisible ink, which is to be made visible only by the application of heat or

some chemical. It matters not what the communication may be; it may be a love letter from one sweetheart to another; it may be any sort of confidential communication absolutely innocent in its character; and yet, seemingly, so great is the fear that the people of this country will communicate with each other in a secret way that we have here attempted to make it a crime for one person to write to another unless the writing is plain and visible.

Mr. VARDAMAN. Mr. President—

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I do.

Mr. VARDAMAN. What is the penalty?

Mr. CUMMINS. The penalty is imprisonment in the penitentiary for two years—that is the maximum—and \$10,000 fine.

Mr. JONES. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Washington?

Mr. CUMMINS. I yield.

Mr. JONES. I have looked at the Congressional Directory and I find that the junior Senator from Missouri [Mr. REED] is a member of the Judiciary Committee. As I understand, this bill was reported from that committee.

Mr. CUMMINS. It was.

Mr. JONES. I am amazed that such penalties as that should be prescribed for sending love notes through the mails—sending a man to the penitentiary for two years and fining him \$10,000. I am amazed that the junior Senator from Missouri is not here protesting against such barbarous legislation as is proposed in that bill.

Mr. CUMMINS. I do not wonder that the Senator from Washington is amazed. The penalties that have been suggested with regard to our legislation for prohibition are mere love taps or wrist beatings as compared with the punishment that is meted out to those who do these things.

Mr. President, I have now concluded my review of section 1 of the chapter, and I again assert that these people who are trying to get information in our country to be transmitted to any other country—and I am almost willing to say whether in peace or in war—should be reached by proper penalties; but I beg the Senate not to draw the whole innocent body of the citizens into a series of crimes for things that they have been doing always. There never was a time when all of us did not do these things that are forbidden in section 1.

I now proceed to section 2.

Mr. WALSH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I do.

Mr. WALSH. Before the Senator leaves section 1 I should like to address his attention to a feature that has had some attention at his hands, and I should like to get his view about it.

Mr. CUMMINS. I am very glad to yield to the Senator for that purpose.

Mr. WALSH. The Senator referred to the *Mayflower*. When that ship is at her slip or dock, it becomes necessary to pass through the navy yard to reach her. Under all ordinary circumstances the citizen is permitted to go in and out at will; but now the gates are closed, and, by a rule of somebody, he is shut out from the navy yard. I suppose the Senator will recognize that some one really has lawful authority to exclude citizens from the navy yard.

Mr. CUMMINS. I think I would.

Mr. WALSH. And if such lawful authority exists why should we not make it a crime for anyone who breaks through to get a view of the *Mayflower* when he is not wanted?

Mr. CUMMINS. Mr. President, I would have no objection whatever to a law that would provide that one who entered, against the regulations of the Navy Department, a navy yard or a ship should be punished.

Mr. WALSH. Then, Mr. President, let me ask if that is not exactly the idea advanced by the Senator from Utah?

Mr. CUMMINS. No.

Mr. WALSH. That this means one who goes into a place like that contrary to a rule or regulation promulgated by the proper authority?

Mr. CUMMINS. I gave the illustration of the *Mayflower* without any reference to her dock being in connection with a navy yard. She might be docked anywhere else, and the same rule would apply. I could approach her, I take it, at a great many places as she journeys around the country without trespassing upon any governmental inclosure.

Mr. WALSH. But, as suggested by the Senator from Utah, you would not then be acting without lawful authority.

Mr. CUMMINS. I do not know. That is what I am waiting to hear from some one who is willing to stand for this chapter—who has lawful authority to know about the national defense.

I proceed now to section 2:

Whoever, having committed or attempted to commit any offense defined in the preceding section, communicates, delivers, or transmits, or attempts to, or aids or induces another to communicate, deliver, or transmit, to any foreign Government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than 20 years.

There is a part of the paragraph I have just read that seems to me to be sound, and that ought to be preserved in any changes that may be made in the chapter. But see what you are doing in another part of the same paragraph. Here is a person who has gotten information contrary to the terms of section 1. That is, he knows something about the national defense, and we will assume that he has acquired the information without lawful authority, although I do not know what that means. Then, if that person discusses in any form the information that he has with a citizen of a foreign country, whether we are at war or at peace with that country, he becomes a criminal, and he is subject to punishment by imprisonment in the penitentiary for 20 years.

I submit to the better judgment of the Senators who are here that such a provision will simply make nugatory the legislation we are preparing. It is so violative of every principle of our institutions that you will not be able to find officers to enforce it; you will not be able to find citizens who will obey it.

Mark you, now, this relates to any information that may have been acquired under section 1. I have often given the illustration, and I need not give it again. If I have secured information relating to the national defense, no matter what part of the national defense it may be—a mine, a factory, a ship, or the Army—and if I discuss that question with any citizen of a foreign country, whether we are at war or at peace with that country, I become a criminal and subject to 20 years' imprisonment. To me the proposal is so wrong that I can not discuss it with composure.

Mr. VARDAMAN. Mr. President, is there any precedent for such drastic legislation as this?

Mr. CUMMINS. I have asked that question before—whether there is or not.

Mr. VARDAMAN. I confess my own lack of information on the subject, but it strikes me as going a very long way.

Mr. CUMMINS. There is a part of this now that is in harmony with free thought and free speech. That is, if a person attempts to communicate or induce any other person to communicate anything to a foreign Government or to any faction or party or military or naval force within a foreign country, it seems to me to be reasonable that he should be punished. But when you pass on and provide punishment for whoever communicates or induces anybody to communicate with any representative, officer, agent, employee, subject, or citizen of any foreign country, then you pass beyond the line that ought to protect the liberty and freedom of citizens.

Mr. OVERMAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. I do.

Mr. OVERMAN. The question has several times been propounded during the speech of the Senator from Iowa whether any other countries have provided such things as this in their statutory law. I want to say that all of the countries at war have much more drastic legislation than we have upon this subject, and I think probably the most of these provisions were drafted from statutes in other countries, but we have made them very, very much less drastic than they are in other countries.

Mr. CUMMINS. Why did you make them less drastic?

Mr. OVERMAN. Because it was more suitable to our form of government to have them in these terms rather than the others. That is the reason.

Mr. CUMMINS. If a man is to be arrested and fined and punished for these things, I do not see what more you could do to him. In my opinion, Mr. President, there are no such regulations anywhere in the world, except military regulations. I understand perfectly that Germany is now under martial law, and Great Britain is under martial law; and I have no doubt that provisions much more drastic than these are being enforced in those countries. I do not believe, however, that in times of peace Great Britain ever dreamed of any such regulations as

these. I may be wrong about it, but I should be very much surprised to learn that there ever were such statutes in Great Britain until she passed under military control. It may be that Germany had provisions something like these, but I am not willing to fashion American life after German militarism.

Mr. VARDAMAN. Mr. President, we are writing laws now governing a people in time of peace.

Mr. CUMMINS. Precisely.

Mr. VARDAMAN. I can understand the necessity for drastic, extraordinary laws in time of war, but that is merely a military order. This law is intended to govern a people in time of peace, with little prospect of war.

Mr. OVERMAN. We are trying to perfect our national defense.

Mr. VARDAMAN. Yes; but we find a hobgoblin in every shadow.

Mr. CUMMINS. Mr. President, I note that the paragraph I have just read closes with this paragraph, which emphasizes what I have said:

Provided, That whoever shall violate the provisions of this paragraph of this section in time of war shall be imprisoned for life.

It simply shows that the former part was not intended to apply to a time of war. Now we come to a paragraph that is confined to war.

Mr. SUTHERLAND. Mr. President, before the Senator passes from this subject I should like to ask him a question.

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I yield.

Mr. SUTHERLAND. If it be true that the first paragraph of this section should be construed as I indicated to the Senator a moment ago that I thought it should be construed, namely, that the citizen would have a right in spite of this provision to go into a fort or to examine a vessel belonging to the United States, or anything of that kind, unless the thing was forbidden by a law of Congress or by a regulation or order of the Department of War, does the Senator see any objection to punishing a man who, having violated that regulation or law or order, and in violation of it having obtained the information, then turns about and communicates it either to a foreign Government or to a citizen of a foreign Government?

Mr. CUMMINS. I think the Senator from Utah probably did not notice that I began my comment upon this paragraph by saying that if section 1 were properly confined I could see no great, if any, objection to this paragraph of section 2. It is only because I do not agree at all with the view taken by the Senator from Utah as to section 1 that I have made the criticisms just submitted upon so much of section 2.

Now, I want the Senator from Utah to understand my thought. I do not want to go on any dock or in any arsenal or on any ship or in any fort. I am perfectly willing that the President shall have the right to exclude everybody from those places. But section 1 of this chapter broadens those places which have hitherto been regarded as purely governmental affairs to the whole country.

Mr. SUTHERLAND. Well, it broadens it, if the President or an agent of the President acting under his authority makes a regulation forbidding the entry upon the place or acquiring information about the thing. I would agree exactly with the Senator from Iowa if I could agree with his premises. If the Senator is right in his construction of this section, obviously he is right in his conclusion. If the section does not mean what I think it does mean, it ought to be amended, as I view it, so that it will be clear.

Mr. CUMMINS. If the Senator from Utah will sit down and write a section 1 of the first chapter, using the language that he has employed in explaining or interpreting section 1, I shall have nothing further to say.

Mr. SUTHERLAND. Mr. President, there is only this danger about that—and the Senator from Iowa, who is a splendid lawyer and about as acute in the use of language as anybody I ever met, understands perfectly the danger—when you come to enumerate a number of things there is danger that you will omit something that you ought to include, and therefore it is better wherever you can in a statute to use general language instead of particular language. The Senator understands perfectly the danger of doing that. Now, in stating what I thought the general language meant, I have stated some of the things I thought it meant, but in all probability I have not stated all of the things that are meant by it.

If the Senator will bear with me just for another suggestion by way of illustration, some years ago I happened to be in San Francisco and went out to visit one of the forts—I have forgotten the name of it—near that city. It was many years

ago, before I was a Member of Congress. I wanted to see all I could of it as a matter of curiosity, not that I was concerned about what was there, but I was simply curious; and I was told that I could see certain things, and certain other things I could not see. Among other things, I remember distinctly that they had been installing some disappearing guns, and I was not permitted to go near those guns. I was expressly forbidden to do it. Now, I could go anywhere else in the fort; I could see the buildings; I could see the general arrangement of it, and all that. Now, I would have been at perfect liberty under this statute to have gone out and told anybody the result of my examination of this fort in all of these particulars; but if, in spite of this statement that I would not be permitted to see these disappearing guns, I had insisted upon doing so and had gone there, I would have been guilty of an offense under the first section—

Mr. CUMMINS. I think the Senator would.

Mr. SUTHERLAND. And I think properly I would have been held guilty and punished.

Mr. CUMMINS. Undoubtedly.

Mr. SUTHERLAND. Then if in addition to that I had communicated the information I had obtained with reference to those disappearing guns to some foreign Government, to a representative or even to a citizen of a foreign Government, I ought to have been punished under the second section.

Mr. CUMMINS. Unquestionably.

Mr. SUTHERLAND. Now, that is what I understand this provision to mean.

Mr. CUMMINS. I also understand it to mean that, but it means a great deal more. That is the difficulty. Every instance that has been brought forward here has been an instance of an offense that ought to be punished. That is the only reply that is being made to me—that certain things have been done, or may be done, which are detrimental to the public welfare and to the national defense, and that they ought to be prohibited. I say, yes, they ought to be prohibited, but when you are prohibiting them do not at the same time make crimes of a thousand innocent acts of the people. That is what I am objecting to.

Mr. SUTHERLAND. Can the Senator from Iowa conceive of a case where the citizen is not entitled to go anywhere in the United States or obtain any information unless it is forbidden by some lawful authority or is in violation of somebody's rights?

Mr. CUMMINS. I do not know. I do not know what the words "lawfully entitled" mean.

Mr. SUTHERLAND. I am quite certain that they mean, in that statute, something which has been forbidden by lawful authority. Anything that has been forbidden by lawful authority, a citizen is not lawfully entitled to obtain. If it has not been forbidden by some lawful authority, then the citizen is entitled to it.

Mr. CUMMINS. Precisely. That is simply arguing in a circle, however. The Senator says "forbidden by some lawful authority." Who has lawful authority to forbid these things?

Mr. SUTHERLAND. The Constitution very clearly shows in this instance who has lawful authority. That is the President; but, of course, the President can not always act in his own proper person. He acts by agents. He acts by the Secretary of War, by the Secretary of the Navy, and by subordinate officers.

Mr. CUMMINS. I assume the Senator means that provision of the Constitution which makes the President the Commander in Chief of the Army and Navy.

Mr. SUTHERLAND. Precisely. It has been held repeatedly under that, as the Senator knows, that the President has the power to make regulations and rules governing the conduct of the Army and the defense of the Nation.

Mr. CUMMINS. Has the President the power, as Commander in Chief of the Army, to say that one shall not enter the factory of the Bethlehem Steel Co.?

Mr. SUTHERLAND. Not unless it has become a part of the national defense; no.

Mr. CUMMINS. Exactly. No one knows what does become a part of the national defense. I suppose he could say that a certain part of a city was so connected with the national defense that everybody must move out of it and no one should be permitted to enter it. I think he could do that in time of war, but I do not believe he could do that in time of peace.

Mr. SUTHERLAND. Then the citizen would not be guilty if he violated it.

Mr. CUMMINS. Then you ask the citizen to incur the risk of determining whether a presidential order or an order of a commander in chief is valid or invalid.

Mr. SUTHERLAND. The citizen does that when he thinks a law of Congress is not constitutional; he has a perfect right to refuse to follow it if he wants to take the risk.

Mr. CUMMINS. Well, Mr. President, I think the argument of the Senator from Utah is the severest condemnation of this chapter that I have heard, and certainly much more conclusive than anything I have said. He has described precisely what the law ought to be, and there should be and is no difficulty in reducing the law to the terms which he has so clearly expressed, and when it is reduced to such terms, or anything like such terms, he will not find me opposing it.

I return now to paragraph "b" of section 2, and I pass it because I have no objection to it. It simply prescribes the death penalty for communicating to an enemy information concerning our military operations. I say I have no objection to it, but I have. It is, however, a general objection. I am opposed to capital punishment for any offense, but I do not think a discussion upon that subject would be material to the present debate.

I now come to paragraph "c," and this is the paragraph which will arouse most interest throughout the country, I am sure. I read it:

Whoever, in time of war, in violation of regulations to be prescribed by the President, which he is hereby authorized to make and promulgate, shall collect, record, publish, or communicate, or attempt to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aeroplanes, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense or calculated to be, or which might be, useful to the enemy, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than three years, or by both such fine and imprisonment.

As this bill was originally introduced, as it was drawn in the office of the Attorney General, the crime was described without any reference to regulations to be prescribed by the President. It was simply made criminal for anyone to promulgate, collect, record, publish, or communicate, and so forth, any information with respect to any of these things, all of which may be combined in the one expression "relating to the national defense."

This is the paragraph of which I said before in the committee, and which I now say again, had it been in force in the last two years three-fourths of the people of the United States would have been in the penitentiary, or ought to have been in the penitentiary, because it was an absolute suppression of free speech, it was an absolute overthrow of a free press. I made that objection to it before the committee; and the way in which it has been amended is to insert the words "in violation of regulations to be prescribed by the President, which he is hereby authorized to make and to promulgate." Instead of overturning the freedom of the people by one act, we have simply delegated the authority to the President to overturn and obliterate that freedom. Under this provision the President can absolutely command silence in the United States upon every subject mentioned in the paragraph. He can suppress every suggestion concerning the national defense in every newspaper of the land. I am not sure whether he would be able to make it an offense for Members of Congress to discuss the national defense. I am inclined to think that we could still preserve our constitutional privileges in that respect, and at any rate we could take shelter behind the immunity given to us in the Constitution for what we say upon the floor of Congress, but the moment we would emerge from these sacred confines then the President could require that we should be silent upon everything pertaining to the national defense.

I was very unwilling to make it an offense directly to do these things, and I am quite as unwilling to give the President the authority to prescribe any such regulations. I am willing to undertake with the Senator from Utah [Mr. SUTHERLAND] or the Senator from North Carolina [Mr. OVERMAN] to draw a code for the regulation of citizens in civil life during a time of war, for I ought to remark that this paragraph is in force only in time of war; but, I think, it is the most remarkable authority I have ever heard suggested for any executive of any free country. It is an authority that the tyrants of the olden times never dared to exercise. You can not find an instance in either ancient or modern history in which any monarch has attempted to put upon his people the restrictions which the President can put upon our people under this paragraph.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Florida?

Mr. CUMMINS. I yield.

Mr. FLETCHER. Does the Senator understand that these forbidden things are all to take place in time of war?

Mr. CUMMINS. I just said so.

Mr. FLETCHER. I did not understand from the Senator's argument that he appreciated that the clause is in the bill, "in time of war." All these things are to take place in time of war.

Mr. CUMMINS. Yes.

Mr. FLETCHER. I might say this to the Senator: He will recall what is called the national-defense act which was passed March 3, 1911. That was considered insufficient, and the bill known as Senate bill 258 was reported in the Senate, and it was not thought to be broad enough. The matter was referred down to the department. The chapter the Senator is now discussing was submitted February 5 and has been approved by the War Department, the Navy Department, and I believe by the General Board. I call attention to the fact that all these matters have been pretty thoroughly considered by the department and reported back to us in this form, and they are quite important and necessary for proper protection in time of war.

Mr. CUMMINS. Every word the Senator from Florida has said is true. If I understand him, I think this paragraph has been not only very carefully considered in the executive departments but it originated in the executive departments. Nor have I any doubt that the executive departments would be glad to see Congress abolished entirely. I have been led to believe in the last few years that the executive departments think that Congress is of little value to the people of this country; that our safety would be better conserved and our welfare better promoted by the deposit of substantially all governmental power in the Executive Office. I think they are perfectly sincere about that. I do not accuse them of any deception about it. They have made their purpose entirely plain in a variety of ways.

I am unwilling, however, speaking seriously, Mr. President, to give the President, even in time of war, the authority to command silence upon all public matters.

Mr. OVERMAN. The Senator has referred to it often, that he resents the idea that the Secretary of War, the Secretary of the Navy, the Attorney General, the Secretary of the Treasury, in charge of the Coast Guard Service, and so on, should get together, have a meeting probably, and agree that the law is defective in many respects, and that certain laws are necessary in this country for the national defense, and to carry out their recommendations send the bills down here to the Judiciary Committee to consider. Does not the Senator think they are doing their duty when these great men who preside over the Navy Department, the War Department, and the Treasury Department, and the President of the United States, get together and say we need certain laws and they recommend to Congress the enactment of laws for the national defense? Does the Senator criticize them for that action?

Mr. CUMMINS. No, sir.

Mr. OVERMAN. That is just what they have done. They have sent down here a recommendation in the shape of a bill that they think ought to be passed in order to protect the national defense. Everybody recognizes the weakness of our laws on this subject; that we have practically no law to protect our country in these places, and because they sent the draft of a bill here that they think necessary for the protection of our country does the Senator criticize them for that?

Mr. CUMMINS. No, sir; I have not done so.

Mr. OVERMAN. I do not understand, then, why the Senator complains.

Mr. CUMMINS. What I have just said is that it is not strange that these departments should think that their chief was a very proper depository of all this power.

Mr. OVERMAN. The Senator intimated that the bill was sent down here and the Judiciary Committee rather accepted what the department recommended without consideration, that we had not considered it.

Mr. CUMMINS. I think that is measurably true. I did not say without consideration, but what I said was, although I have not said it recently, not in the last few minutes, that these bills did not receive the same kind of consideration which they would have received had they been the product of a Senator.

Mr. OVERMAN. I can not understand why the Senator should say that. He has repeated that two or three times during this debate.

Mr. CUMMINS. I would not have done it if the Senator had not been drawing it from me all the time.

Mr. OVERMAN. I just came into the Chamber, and I said nothing when the Senator referred to it. The Senator has repeated it, and I have asked him the question whether he thinks when these great men in the Cabinet who preside over great departments and who are looking after the destinies of this country agree among themselves that we have no law such as we need for defense, and that we need laws to protect and defend this country, why he should criticize them for doing that thing.

Now, as to the other point, the consideration of this bill, it was referred to a subcommittee. It is true that some of us

are not as able as the Senator. The Senator is a very able man, and he is able to criticize any bill, and he generally does criticize a bill that comes before us. It was referred to a subcommittee of four Senators, and was then taken up before the full committee, and nearly all the members of the committee were there. The Senator himself came in two or three times. He was there a few times and made some objection, but did not come back any more. We stayed there and considered these bills day in and day out for a week, and I do not think this criticism of us is justified.

Mr. CUMMINS. Mr. President, I have made no such criticism. I have stated what I believe to be a fact, and the Senator from North Carolina has not denied it. If he will deny it, I will accept any statement he makes. The utmost I have said is that these bills having emanated from the office of one of the departments of the Government were not considered in the same way that they would have been considered if they had come from a Senator. I believe that to be true, no matter how long the Judiciary Committee may have sat in the consideration of them, no matter what amendments may have been made to them.

I now return to the other suggestion. Mr. President, if we are to consider the proper relations between the departments of the Government, I believe they ought not to meet together and agree upon bills to be sent to Congress. The Constitution provides how the Executive shall communicate with Congress. If the President believes there is a weakness in our law, it is his privilege, it is his duty, to communicate his judgment to Congress. Then it is the responsibility of Congress to deal with his communication in a way in which it ought to be dealt with. But without reflecting in the least upon the distinguished Attorney General, for I have the highest regard for him; I think he is a patriot—without reflecting upon the head of any other department I believe we are rapidly taking on a custom which in the future will defeat in a large measure the usefulness of Congress. I believe Congress is rapidly becoming the mere scrivener for the executive department. In the years to come even more than now, if we do not correct this tendency, it will be our privilege to perfunctorily register and record the bills that have been prepared in the departments and sent to Congress for its action.

Mr. CHAMBERLAIN. May I interrupt the Senator?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Oregon?

Mr. CUMMINS. I gladly yield.

Mr. CHAMBERLAIN. I have not been informed about these measures nor the reasons which induced their preparation by the department, but I have rather assumed that they were suggested by events that transpired shortly after the European war began. The Senator will recall when a foreign ambassador was recalled and other foreign officials who were connected in one way or another with this Government as a representative of other governments were sent home or invited to go home a good many things were being committed here which led to an investigation by several of the departments to ascertain the condition not only as to the facts that were then in existence but as to the law which would enable such people to be punished who were committing depredations against the property of citizens of this country. This bill was the result of investigations which were then had and which showed that our Government did not have the laws to punish those people. Under these circumstances, does not the Senator feel that the men who have investigated it and who knew wherein the deficiency in the law lay were the best men to prepare the law?

Mr. CUMMINS. I do not. I believe they are the best men to give Congress the information upon which the law should be prepared, and I have no objection to their advice as to the form of the law.

Mr. CHAMBERLAIN. The Senator knows as well as anyone here that it would be almost a physical impossibility for one Senator or half a dozen Senators to get together and formulate a law that would meet these conditions, even if they had all the facts. I think the Senator will recognize that even in the legislative bodies in the States where a bill of any importance is to be prepared it frequently happens that an attorney outside, who gave exclusive attention to the subject, prepares a bill and then it is submitted to the legislative body. It seems to me it is the easiest thing to get laws before Congress in this way, and then the Senate can criticize them and remodel them and reform them to suit themselves.

Mr. CUMMINS. The only trouble in getting laws before us in that way is that there is not the same liberty of dealing with them that would exist if they were to come before us in another way. Gradually I have seen the insidious approach, and so has every Senator. Gradually we will accept the bills as they come from the departments without any change, because we will

come to rely upon their superior judgment with regard to public matters.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Florida?

Mr. CUMMINS. I yield.

Mr. FLETCHER. I wish to make this suggestion to the Senator: The circumstances mentioned by the Senator from Oregon [Mr. CHAMBERLAIN] did develop that in the judgment of the Department of Justice, based upon their experience and investigation, the national-defense act of 1911 was imperfect and incomplete. They reported back to Congress, and the Attorney General submitted a bill (S. 258) to meet some of the defects and to cure the imperfection in the national-defense act. The committee naturally turned to the Department of Justice to point out wherein the act was defective and wherein it was incomplete, and to submit to us recommendations. The Department of Justice took that up with the other departments, and the result is this bill. Of course, I do not mean to say that by way of indicating that the committee of the Senate or any Senator has not a perfect right to tear it to pieces if it can be done, but I am simply saying that it was quite natural that the department which had found the laws which we put on the statute books in 1911 defective and incomplete should be called upon to suggest a cure for those defects.

Mr. CUMMINS. I will not dwell further upon the particular way in which this bill came into Congress. I mention the matter only incidentally, anyhow. I am a great deal more interested in what the bills contain than I am in their origin.

I pass now to section 3, and I intend to make the remainder of my comment upon the chapter very brief, for I have already occupied the floor much longer than I had any dream of doing. Section 3 of chapter 1 provides:

SEC. 3. Whoever, in time of war, shall, by any means or in any manner, spread or make reports or statements, or convey any information, with intent to cause disaffection in or to interfere with the operations, or success of, the military or naval forces of the United States, or shall willfully spread or make false reports or statements or convey any false information calculated to cause such disaffection or interference, shall be punished by a fine of not more than \$10,000 and by imprisonment for life or any period less than 30 years.

The first part of the section I have read is, I think, unobjectionable, for the crime involves an "intent to cause disaffection in or to interfere with the operations, or success of, the military or naval forces of the United States." The latter part of the section, it seems to me, is, however, exceedingly dangerous and it ought to be very materially modified. It says:

Of shall willfully spread—

Of course, anyone who spreads at all, spreads willfully— or make false reports or statements or convey any false information calculated to cause such disaffection.

A man may circulate a report or a statement—and the subject is not limited; it may be upon any subject whatsoever—but if it is calculated to cause disaffection or interference with the military or naval forces of the United States he becomes liable to imprisonment for life or for any period less than 30 years. I do not believe that we can afford in our country, even in time of war, to make every man a guarantor for the truth of the statements or reports which he may circulate or spread. I do not think we can afford to subject one who issues a statement, which turns out to be false, to a fine of \$10,000 or to life imprisonment or to imprisonment for any period less than 30 years.

Mr. REED. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I yield.

Mr. REED. The language is:

Or shall willfully spread or make false reports or statements or convey any false information calculated to cause such disaffection or interference.

Is it the Senator's opinion that the word "willfully" does not qualify the entire clause?

Mr. CUMMINS. I heard the Senator declare the other day that, used in that connection, it did not; and I believe he was right.

Mr. REED. The Senator heard me raise the question whether the word "willfully" in some other bill qualified some other clause.

Mr. CUMMINS. In connection with one of our prohibitory bills.

Mr. REED. But I am asking the Senator, not in a controversial spirit at all, but with the desire to get his opinion, whether it is his judgment that the word "willfully" does not qualify all that follows, so that the bill in effect means—"or who shall willfully spread or make false reports, knowing the same to be

false"—whether the word "willfully" does not imply knowledge?

Mr. CUMMINS. But the word "knowingly" is not here.

Mr. REED. I will say to the Senator from Iowa that if he or any other Senator thinks that the word "willfully" could be construed as to mean simply that the paper or document was purposely put in the mail or otherwise distributed, and that that did not imply a knowledge of the falsity of the article, then I think the language ought to be changed, for there ought to be no doubt about it.

Mr. CUMMINS. I was quite serious when I said I heard the Senator from Missouri make an argument upon that subject the other day, and it was that argument which first attracted my attention to this particular section of the chapter. It convinced me, and I have since been of that opinion, that the word "willfully" does not qualify the word "false"; that a statement may be willfully spread without being willfully false.

Mr. REED. Of course, if a man willfully made false reports he should be punished.

Mr. CUMMINS. That would remove, in my judgment, the entire objection which I have made to the section. All I object to is that it is too severe a penalty to impose upon one who spreads reports, who intentionally starts a report, but does not intend to produce any injury to his country or to its land and naval forces. If he knows it to be false, I would take quite a different view of the section.

I pass on, for I take it that various amendments will be offered before the chapter is fully considered.

Mr. REED. Will the Senator pardon me for just a moment? The PRESIDING OFFICER. Does the Senator from Iowa yield further?

Mr. CUMMINS. I do.

Mr. REED. In order to make my meaning plain, suppose we should insert after the words "willfully spread," which is the phrase used, the words "knowing the same to be false, or make false reports or statements or convey any false information knowing the same to be false," would that be satisfactory?

Mr. CUMMINS. That would be entirely satisfactory.

Mr. REED. I think, as the doubt has been raised, that the committee ought to modify the language.

Mr. OVERMAN. I think the matter is fully covered; but as the able Senator from Iowa differs and thinks there is doubt about it, I have no objection to accepting that amendment right here.

Mr. REED. I think it will have to be rewritten.

Mr. OVERMAN. Will the Senator from Iowa offer an amendment to that language?

Mr. REED. I would not want to offer the amendment in a haphazard way, because, while I can express the idea very plainly with a great many words, I think it can be expressed in a very few words.

Mr. OVERMAN. Probably the Senator from Iowa has an amendment to cover that.

Mr. CUMMINS. I shall have amendments to propose, assuming that we do not conclude the bill to-night.

Mr. President, I have already commented upon section 6 of chapter 1.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I yield.

Mr. SUTHERLAND. Before the Senator passes from his criticism of the use of the word "false" without any qualification, the Senator will recall that we had in the Judiciary Committee a discussion of the same matter.

Mr. CUMMINS. I remember that.

Mr. SUTHERLAND. And it was finally there determined that the word "false" itself implies a species of knowledge or deliberation. In that connection I call attention to the definition of the word "false" in Bouvier's Law Dictionary, where it is given its legal signification. Of course it means something more than untrue.

False. Applied to the intentional act of a responsible being, it implies a purpose to deceive.

Citing authorities—

In a statute prescribing punishment for false statements in making an entry of imported goods, "false" means more than incorrect or erroneous. It implies wrong or culpable negligence, and signifies knowingly or negligently untrue.

So that, particularly in a criminal statute, the word "false," unlike the word "untrue," implies all that the Senator from Iowa thinks it should imply.

Mr. CUMMINS. I think there is some ground for the contention just made by the Senator from Utah, but we have not

been in the habit of drawing criminal statutes that are susceptible to different interpretations or constructions; and I do not want the word "false" to go into the law unaccompanied by any qualification.

Mr. REED. I suggest this amendment to the committee and to the Senator from Iowa, who has the floor: In line 7 strike out the word "or" and insert the words "whoever, knowing the same to be false," so that the clause would read:

And whoever, knowing the same to be false, shall willfully spread or make false reports or statements or convey any false information calculated to cause such disaffection or interference shall be punished—

And so forth. With those words in, I think the entire phrase is qualified as the Senator from Iowa thinks it should be.

Mr. CUMMINS. I think the suggestion of the Senator from Missouri will cure every objection I have to the paragraph, but inasmuch as I am passing through the entire chapter and analyzing it as best I can, I would prefer that action on the amendment should not be taken at this time, as I am about to close my comment upon the chapter.

As I was remarking a moment ago, section 6 is the section which gives to the President the power to designate any place in the United States other than those set forth in paragraph (a) of section 1 as a prohibited place which one not lawfully entitled to do so is forbidden to approach or to enter or to acquire any information about. I need not say more than I have already said in regard to that section.

These are my objections to chapter 1. I think that, taking the chapter as a whole, it is subversive of the civil liberty of our citizens. I think it will render life in times of peace unsafe. I think it will subject the freedom of the people to the will or whim of the executive officers of the United States. I think it is vastly more important, Mr. President, that we preserve untouched and unmodified the spirit of our institutions than it is to guard every avenue through which information concerning our national defense may escape.

I will at the proper time offer certain amendments to this chapter as well as to other parts of the bill.

Mr. LEE of Maryland. Mr. President, I desire to ask the acting chairman of the committee whether this bill has not been prepared upon the theory of preventing espionage in advance of war, rather than of preventing espionage after war has commenced; and as to whether it is possible, without interference with the commerce and natural liberties of a people, practically to prevent espionage before war commences?

Mr. OVERMAN. The bill provides for the prevention of espionage in time of peace, when war is imminent, while war is flagrant in the land, and after war—at all times.

Mr. REED. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Missouri?

Mr. OVERMAN. Yes.

Mr. REED. I offer an amendment, which I hope the chairman of the committee will accept. I have already called his attention to it. In section 3, page 6, line 7, strike out the word "or" and insert "and whoever, knowing the same to be false."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In chapter 1, section 3, on page 6, line 7, after the words "United States," strike out the word "or" where it occurs the second time, and insert "and whoever, knowing the same to be false," so that if amended it will read:

SEC. 3. Whoever in time of war shall, by any means or in any manner, spread or make reports or statements, or convey any information, with intent to cause disaffection in or to interfere with the operations or success of the military or naval forces of the United States, and whoever, knowing the same to be false, shall willfully spread or make false reports or statements or convey any false information calculated to cause such disaffection or interference, shall be punished by a fine of not more than \$10,000 and by imprisonment for life or any period less than 30 years.

Mr. OVERMAN. I think the words suggested by the Senator from Missouri cover what was intended by the committee and what, after discussion, the committee concluded the words "false reports" would be construed to mean; but, inasmuch as the Senator from Iowa [Mr. CUMMINS] has some doubt about it, I will offer no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED. Mr. President, I desire to say a word further. During my absence from the Senate it seems that my name has been taken in vain by the Senator from Washington [Mr. JONES] and the Senator from Iowa [Mr. CUMMINS]. They were discussing paragraph (f), which reads:

Whoever, within the United States, sends by post, or otherwise, any letter or other document containing any matter written in any medium which is not visible unless subjected to heat, chemicals, or some other treatment, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both.

When that was under discussion the following colloquy occurred:

Mr. CUMMINS. The penalty is imprisonment in the penitentiary for two years—that is the maximum—and \$10,000 fine.

Mr. JONES. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Washington?

Mr. CUMMINS. I yield.

Mr. JONES. I have looked at the Congressional Directory, and I find that the junior Senator from Missouri [Mr. REED] is a member of the Judiciary Committee. As I understand, this bill was reported from that committee.

Mr. CUMMINS. It was.

Mr. JONES. I am amazed that such penalties as that should be prescribed for sending love notes through the mails—sending a man to the penitentiary for two years and fining him \$10,000. I am amazed that the junior Senator from Missouri is not here protesting against such barbarous legislation as is proposed in that bill.

Mr. CUMMINS. I do not wonder that the Senator from Washington is amazed. The penalties that have been suggested with regard to our legislation for prohibition are mere love taps or wrist beatings as compared with the punishment that is meted out to those who do these things.

Now, Mr. President, of course this was all a bit of pleasantry, had in my absence from the Chamber. I would not treat it seriously except that the pathetic character of the humor forbids levity. However, I think I should assure the Senator from Washington that if he is in the habit of writing his love letters in invisible ink, and therefore feels that the clause of the bill against which he protested will infringe his personal liberties or compel him to alter his habits, I shall be delighted to support an amendment which will exempt him from the penalties of the act.

The truth about the matter is that while I am a member of the Judiciary Committee, as is the Senator from Iowa, like the Senator from Iowa I found it impossible to be present at all times when this legislation was being considered. I know that the Senator from Iowa was, during a part of that time, serving upon another important committee which required his attendance. It happens to be my fortune to be a member of the Banking and Currency Committee, which was considering important legislation, and also of the Commerce Committee, which was considering the river and harbor bill, and all three committees were sitting at the same time; so that while I gave to this bill when in committee such attention as I could the particular clause under discussion never came to my attention until this afternoon, when I learned of the witty remarks of my friend.

However, the bill does relate to serious matters, and this clause of the bill is intended to prevent practices which may be very dangerous. Nevertheless, I remark now, lest I should forget it later, that I believe the clause is very imperfectly drawn. It should be amended, and I will endeavor to draft an amendment which will more clearly express the purpose which was in the mind of its author. The purpose and, I think, the construction which would be given, notwithstanding the somewhat broad and sweeping language of the clause, was to prevent the information of the kind and character which is prohibited by the other clauses of the bill being transmitted through the medium of invisible writing—an act which in itself clearly indicates the purpose of the writer to send the information in such a way as to prevent the authorities from knowing that it is being conveyed. The section of the bill is intended to relate distinctly to that kind of communication which is adopted by spies or those who conspire against our Government, and the proposition must be treated from that standpoint.

Mr. President, conceding, as I do, that the language ought to be made clearer—for I think there never should be any doubt as to the purpose of a law if that doubt can be removed by a proper use of the English tongue—I nevertheless take this occasion to call attention to the fact that a very grave situation confronts the United States at this moment. We have so long been in a condition of real or imagined security that it is difficult for us to understand that a great menace confronts the country. At absolute peace with ourselves, and desiring peace with all the world, it is very difficult for the American people to imagine that any foreign power will so conduct itself as to menace our rights as a Nation. But the man who will not be aroused to a state of anxiety and caution, and whose sober judgment will not be enlisted, by the circumstances that now confront us is very dull indeed.

We do not know at what moment the bolt may fall. We hope, and we will continue to hope and to pray, that our country will escape being drawn into conflict with any nation, great or small. But when we have proceeded to a point where it has become necessary to sever diplomatic relations with a great nation, and when we find that a policy is being pursued that is violative of our rights as a sovereign power upon the high seas, when we see American commerce congested in our ports and the threat boldly made that every vessel will be sunk that dares sail the

seas unless it obeys the rules laid down by another nation, when we know that the threat is being boldly and relentlessly executed, it is time to set our house in order, still hoping for peace, but preparing for whatever may eventuate.

This bill may contain language that is too broad; it may contain phraseology which must be modified; but it would be a better service to the country if Senators, instead of sneering at it and simply performing the office of carping critics, were to bring to it their highest thought and best energies in order that the measure might be speedily perfected and enacted into a law.

This bill is intended to apply to two conditions: First, to a case of actual war; second, to a case so threatening that the President shall be justified in declaring an emergency to exist. It is not conceivable that the President will declare such an emergency out of mere caprice or in obedience to a mere whim. It must be regarded that the President will not exercise the great powers conferred by this bill unless conditions are so grave as to warrant the action.

You say that the bill confers great powers upon the President. Powers, sir, must be reposed somewhere. Under the Constitution we have given to the President the supreme command of the Army and the Navy of the United States. It is always possible that some President may abuse that great power. Some day some President may try to employ it to subvert the liberties of the American people. That argument was made when the Constitution was written. And yet the power to command the Army and the Navy had to be placed in some human agency. It was necessary that the trust should be reposed in some human soul. It was believed then and experience has thus far warranted the confidence that the President would not abuse that power.

If we can confer the supreme command of the Army and Navy upon the President, we surely can trust him not to declare an emergency unless a real emergency exists. I speak not alone of the present Executive. The same statement could have been made of his predecessors. I know of no instance where a President of the United States has not always evinced a patriotic love of his country and of the liberties of the people.

It is said that "this bill will circumscribe the liberties of the press." In time of war, or threatened war, it may be necessary to limit the right of the press to send out information which will be beneficial to the enemy as it is to limit the right of the private citizen. In time of war, or grave danger of war, the ordinary liberties and rights of all of the citizens of a country must give way to the supreme necessity of the hour.

Newspapers perform a most useful function. For the complete liberty of the press all of us have always stood. And yet, if we were in a state of war and newspapers were permitted to print every movement of our Army, every movement of the Navy, they might be performing an office more dangerous to us than would be the presence of a thousand spies who were operating only through secret channels. It might be that information would thus be given to the enemy which would result in the sinking of the American Navy. It might be that the publication of the plans of a fortress or the location and character of a line of defense conveyed to the enemy would give to the enemy commander such an advantage as would enable him to overwhelm our troops. The price of a single article giving important information might be paid in the blood of thousands of gallant men.

It is said we need no such law in time of peace. There may be conditions so closely approximating the dangers of war that the authority must be exercised even though war has not yet occurred. Let me give you an illustration. I do it without the slightest offense, I hope, against the particular newspaper I hold in my hand. I will say by way of parenthesis that what it did the other day is no worse than other papers have been doing. I speak of the article therefore merely for purposes of illustration. Here is the Washington Times of yesterday. Let me read the headlines:

Wilson plans big naval demonstration against German U-boat campaign.

Tentative arrangement to be laid before Cabinet meeting to-day.
Made in secret.

Then follows the statement in the body of the article that—

The plans are understood to have been completed at a secret meeting of the Naval Officers' League last night at the Navy Department, following the conference which the President held late yesterday afternoon at the White House and at the State, War, and Navy Building, Secretary of State Lansing, Secretary of the Navy Daniels, and Secretary of War Baker.

With some omissions, this follows:

While the greatest amount of secrecy has been thrown about the meeting, it is learned that the plans agreed upon for submission to the President embrace every phase of future developments, from the arming of American merchant ships with naval guns to an active campaign

against the German U boats. Also considered and arranged for, it is understood, was the intermediary step of convoying American merchant vessels through the war zone.

There is more of the article, but notice the import of it. Naval and military officers hold a secret meeting. Why secret? So that their plans may be effectively put into execution. The Cabinet meets in secret to consider it. Why secret? Because the knowledge conveyed to the country with which we unfortunately sustain strained relations might defeat our plans. Yet a newspaper regards it as entirely proper and as a highly commendable piece of journalism to publish broadcast to the world all it can find out and all it can infer with reference to those meetings.

I do not impugn the motives of this paper. I say that it is a part of the general policy that has been pursued by the press for many years, and yet I venture the opinion that if the editor of the Times had been asked to convey that same information to a German officer he would at once have said, "If the Cabinet desire that this shall be secret, and if the military authorities desire that it shall be secret, I, as a patriotic American citizen, will not breathe a word of it." I know he would have said that.

Possibly no harm was done by the publication by the press of the statements I have referred to. Nevertheless it serves to illustrate what is likely to happen if international relations remain strained. Likewise it shows what is certain to occur if unhappily war does come, namely, that the proprietors of the press, desiring to furnish their readers with information, having that motive and that purpose in mind, will print everything they can get to print. They will not pause to consider what uses an enemy may make of the information.

So when we propose this character of legislation it is not out of enmity to the press, neither does it spring from a desire to throttle public discussion or to subvert the liberties of the people, but it is because the safety, aye, perhaps the life, of the Nation may be jeopardized by the indiscriminate publication of information. The measure, therefore, viewed in that light is not a hard measure directed against the press or against the rights of the citizens; it is, on the contrary, calculated to protect the country itself and hence to protect the rights and liberties of all its inhabitants.

Mr. President, I have referred particularly to the press because it has always been regarded as one of the institutions of our country that is to be given the fullest liberty, and with that sentiment I am in complete accord, but the illustration I have used I desire to have applied to all the provisions of this bill. These provisions are intended for times of danger. They are meant to be employed only for the protection of the Nation. The abuse of a single one of these powers would result in an instant repeal of the law by Congress.

Therefore we ought to regard this measure as a very solemn one. We ought to discuss it fairly, having in view only the production of the wisest law we can frame. We ought also to bring the legislation to the point of passage and signature at as early an hour as possible.

Let me say this in conclusion. Those who have watched the war between the central powers and the allies have observed one thing: Germany has always been ready; the allies have rarely been ready until blow after blow has been struck. Let us employ the days we now have so that if the worst comes to the worst we shall at least have the satisfaction of feeling we have done our best.

Mr. LEE of Maryland. Mr. President, the question arises in my mind, as I listen to the remarks on this bill from Senators who seem to be considering it quite judicially, as to whether or not the provisions in the bill, intended to prevent improper reports getting abroad with reference to American military conditions, are not so light and comprehensive that they will tend to cut off a legitimate discussion of unpreparedness in this country. We are a Republic, and we are subject, as a Republic, to the infirmity of a lack of military preparation. The Senator from Missouri has just referred to that condition. An imperial nation, with an imperial head and a military aristocracy, if it has any virtue at all will have enough of military discipline and preparation and more than enough. But in a republic there is generally need to have the public mind stimulated and awakened to the necessity of some reasonable preparation for war.

I have been somewhat of late in the Committee on Military Affairs of the Senate, and so far as I can judge it is the opinion of the chairman, the Senator from Oregon [Mr. CHAMBERLAIN], who is here now, that the country at large, rather than the War Department and Congress, is responsible for our present lack of preparation.

Mr. President, does not the language of this bill go so far as to practically prohibit citizens in public meetings from speaking in detail of the unpreparedness of the country, because to speak

definitely, to describe actual conditions, would be information affecting the national defense?

Winter before last, if I remember correctly, a friend in New York sent me a letter from Gen. Scott, which I put into the RECORD in connection with our having no great movable guns. By reason of the way in which the Germany artillery destroyed the fortresses of Liege and Namur large stationary guns in fortresses are held to be no longer a defense to a country, and it was thus discovered by the allies and our own military men that the great gun must also be a movable gun, because if it has a fixed position the movable and concealed gun of the enemy will necessarily destroy it. That letter from Gen. Scott to this gentleman in New York, in answer to an inquiry on this subject of great movable guns, stated that after considerable effort the general had persuaded the Secretary of War and the General Staff to agree to the manufacture of six such guns, and that they were going to manufacture the six guns, but they had not yet arrived at a proper kind of mount to put them on, and as soon as the plans for the mount were prepared they were going to go ahead and manufacture the six movable guns, all they apparently contemplated of that absolutely essential form of ordnance under modern conditions.

Mr. President, last winter, after one year, we had not manufactured them, and now, after another year, if a citizen happens to know, as I know that these guns have not yet been manufactured, can he not mention the subject? Would he not be open to the penalties of this act for discussing a lack of preparedness in the War Department of which every government in Europe is fully aware?

Mr. OVERMAN. Oh, no.

Mr. LEE of Maryland. It is absolutely pertinent to our national defense that we should have some of these great movable guns. Six hundred of them—several thousand of them—would be in proportion to the coast lines we have to defend. Yet when a citizen ascertaining these facts, organizes an agitation in this country for some remedy, even in time of peace, is not that citizen open to the indictment of this proposed statute?

Mr. President, I sympathize very greatly with all the feelings that these gentlemen have expressed about the necessity of protecting governmental and military secrets, but in a republic, in a country like ours, that has so little land preparation, in attempting to conceal so-called secrets, are we not concealing them from ourselves only and more likely to prevent the proper development of our military defense than to advise an enemy?

As I look at this situation, so far as from suppressing any detailed agitation and comment upon the lack of preparation in the country, comment ought to be stimulated. The country needs more agitation than it does secrecy just at this stage of our national armament.

I have been listening with a great deal of interest to the comments of the various Members of the Senate on this bill, because I can not help feeling that in seeking one end they have, to a certain extent in the preparation of the bill, overlooked the general conditions that confront a free country trying to arm itself and to protect its national and international rights.

This is a very drastic measure, Mr. President; and without feeling at this stage that I should vote against it, I certainly hope that there will be some definition put into the bill, something wherewithal to protect the citizens of the Republic in the exercise, in times of peace at least, of what might be called customary rights in the exercise of their ordinary avocations.

I could not help thinking of the situation in my State as I heard the debate going on. Nearly every county seat in Maryland has a militia company with an armory either built by the State or rented. In that armory are the rifles and equipment of those troops. These armories are also used for social purposes, speaking, and lectures. Everybody knows how many rifles are there; but it is to be made a crime to go there in time of peace. Generally speaking, these towns are on the railroads. Now, suppose that under this section 6 the President makes the railway one of the so-called secret places that you could not go near. The armory being already in seclusion, a citizen passing over the railway going to get his mail, say, and into that armory would have violated, in a time of peace, two of the prohibitions in this statute.

Possibly this proposed law may have some other aim than the one expressed. It may be that it is going to settle the railroad-strike question in an indirect manner. But whatever may be the real significance of this statute, it does seem to me that its terms are so comprehensive that they overshoot the mark with reference to military precautions in time of peace.

I agree fully with everything that the statute has in it with reference to times of war. That is a different condition. Take the question of locating these great movable and concealed guns. In times of war all population can be taken out of the section

where these guns are to be located. Sentries can be posted and the concealment of the great pieces, or any other military preparation that is necessary can go on, and the death penalty be visited upon the person improperly revealing these military secrets. But in time of peace in a republican form of government criticism of the acts and more especially of the neglects of the Government with reference to military preparation are pertinent and right. It does seem to me, Mr. President, that this bill as now worded goes too far.

Mr. REED. Mr. President, before the Senator from Maryland takes his seat I desire to ask him a question.

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Missouri?

Mr. LEE of Maryland. I do.

Mr. REED. The Senator speaks of giving out information in time of peace, and says it is entirely proper to visit the death penalty for such an offense. Of course he means that the death penalty might be visited in an extreme case. But now let us take a situation like this—I will put a hypothetical case, so that it will not have any bearing on present conditions: Suppose our country was so situated that the President knew in all human probability that war was about to be declared against us, but that war has not been declared; and, in order to be ready, the President, as Commander in Chief of the Army and Navy, should undertake to have established a line of secret batteries so posted as to protect the city of Baltimore; and, in order to keep that information from getting out, he were to declare an emergency, such as this bill contemplates must exist if the declaration is made, and some individual were to slip in, find the location of these batteries, and carry the information where it would do us the most injury; and all this occurred in time of peace, but also during an emergency such as this bill provides for, would the Senator say that Congress ought not to pass some legislation to reach that kind of a case?

Mr. LEE of Maryland. Has the Senator finished his question?

Mr. REED. Yes.

Mr. LEE of Maryland. Mr. President, the hypothetical case suggested by the Senator from Missouri is precisely what I was talking about, namely, the location of these great guns in such manner that their positions could not be revealed to an enemy. My feeling is that such guns can not be finally located until war is declared and absolutely tight lines of military exclusion are drawn to protect the location of such pieces from common knowledge; and my general feeling would be that any attempt to draw such lines upon the commerce of the people in times of peace would really not keep out the spies of an enemy but would simply operate to inconvenience and harass our own people.

I do not believe, Mr. President, that military men with actual experience in the management of the great artillery struggles on the other side would, with ordinary commercial activities going on, rely upon keeping secret for any length of time the location of such great pieces. It is a matter of art to conceal them; it is a matter of great precaution during hours of daylight to keep their places of concealment from becoming known. The whole business is something to take place after war is declared, rather than to burden commerce with an awkward attempt to control spies, who are necessarily beyond control so long as ordinary commercial activities go on.

Mr. REED. Then the Senator does not believe that we have any business to prepare for war until war is actually upon us?

Mr. LEE of Maryland. Far from it, Mr. President.

Mr. REED. And that up to the very moment—

Mr. LEE of Maryland. The Senator from Missouri has not been listening to what I have been saying or he would not have made that remark.

Mr. REED. I am merely construing the Senator's own words.

Mr. LEE of Maryland. I believe—and I think the Senator will believe if he thinks over it a little bit more—that the nakedness of this country, so far as military preparation is concerned, had better be agitated, and extensively agitated, by our people, and that any effort to conceal that nakedness from ourselves or to prevent criticism of our Military Establishment, when its insufficiency is known to all the world, is a great mistake for any patriot in this country to be a party to.

Mr. REED. Mr. President, of course, nobody intends to stop people from agitating for more preparation; nobody has dreamed of that; but the position of the Senator from Maryland is that it is all right to buy guns, all right to buy ammunition, and all right to get ready, but that it is also all right to tell the enemy all about it, even when you stand in the very shadow of an impending conflict.

The point of difference between the Senator and myself is that I think when we reach a condition so dangerous that the President declares an emergency it is then time to begin getting ready and protecting ourselves against spies and against the

giving out of dangerous information; and that it is not necessary to wait until the guns of the enemy are thundering at the gates of our cities.

Mr. OVERMAN. Mr. President, I submit the amendment which I send to the desk. I will say that some clerks for service in connection with the issuance of passports charge \$1.50 and some charge \$6. The amendment proposes to fix a uniform system of fees for this service.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In chapter 4, section 1, page 12, line 8, after the word "passport," it is proposed to insert the following:

Clerks of the United States courts, agents of the Department of State, or other Federal officials who may be authorized to take passport applications and administer oaths thereon shall collect for all services in connection therewith a fee of \$1, and no more, in lieu of all fees prescribed by any statute of the United States, whether the application is executed singly, in duplicate, or in triplicate.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Carolina.

Mr. REED. I should like to know the object of that amendment.

Mr. OVERMAN. The fees charged for passports in this country run all the way from \$1.50 to \$6, and this is to make the charge uniform.

Mr. REED. Is that amendment germane to this bill?

Mr. OVERMAN. Yes, sir.

Mr. REED. Very well, then; I have no objection to it.

Mr. OVERMAN. It comes in on the passport section, and provides a uniform fee of \$1 for a passport.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Carolina.

The amendment was agreed to.

Mr. WALSH. Mr. President, I am very glad, indeed, that the Senator from Iowa [Mr. CUMMINS] has directed our attention, in his usual persuasive way, to some of the features of this proposed legislation. It is possible that the scope and effect of section 1, of chapter 1, may be broader than it was the purpose of those who are responsible for framing the legislation desired or intended. In practical operation, I am very certain that no harm would come to the law-abiding citizen by reason of the bill if it took effect in the language in which it is now framed. There is, however, it might be said in perfect justice to those responsible for it, more or less ambiguity in the language found in lines 4 and 5, on page 1, "to which he is not lawfully entitled." The section recites—

That whoever, for the purpose of obtaining information respecting the national defense to which he is not lawfully entitled—

And so forth.

Then, Mr. President, it is, I feel sure, rather wider in its scope than it need be. It denounces as a criminal anyone who, "for the purpose of obtaining information respecting the national defense to which he is not lawfully entitled, approaches, goes upon, or enters," among other places mentioned, any "building, office, or other place connected with the national defense." Of course, the office of the Secretary of War is a place connected with the national defense, and if one enters that office for the purpose of securing information concerning the national defense to which he is not entitled, he would become amenable to the penal provisions of this act. Now, some lady having a son among the troops upon the border and solicitous concerning his welfare, might easily enter the office of the Secretary of War and ask the Secretary of War when the soldiers were coming home from the border, and, of course, he would be obliged to say to her, "My dear madam, that is information to which you are not entitled, and I can not give it to you." Technically, and under the exact language of this bill, the lady would be guilty of a violation of the act. Of course, no one intended any such result at all. As I have said, I think the words "to which he is not lawfully entitled" are too ambiguous to be given a place in a penal statute.

I am going to propose a modification of the language in that respect, which will, I think, remove much of the objection urged against this section by the Senator from Iowa. I shall not ask consideration for the amendment this evening, but shall call for a consideration of it later in the history of the bill. I suggest that the words "to which he is not lawfully entitled," on page 1, lines 4 and 5, be stricken out, and that there be substituted instead the following: "without the permission, expressed or implied, of one lawfully entitled to give the same," so that the section shall read:

That whoever, for the purpose of obtaining information respecting the national defense, without the permission, expressed or implied, of one lawfully entitled to give the same, approaches, goes upon, or enters, flies over—

And so forth.

So that two things will be necessary: The one who does it must have permission, either expressed or implied, from one lawfully entitled to give it, and he must enter or go upon the place for the purpose of getting information concerning the national defense.

The conditions that surround the *Mayflower* have been adverted to. Her dock is within the confines of the navy yard. If the gates of the navy yard are swung wide open, of course that is an implied invitation to anyone to go through. If the gates are closed, one must, as a matter of course, get some express authority to go inside, or he becomes liable under the act.

Criticism has been made also, Mr. President, of subdivision (f) of section 1, chapter 1—a very just criticism to my mind. That subdivision received the careful consideration of the Judiciary Committee. I myself invited the attention of the committee to its provisions.

Mr. OVERMAN. To what provision does the Senator refer?

Mr. WALSH. The provision at the bottom of page 3, extending over into page 4, subdivision (f) of section 1, chapter 1. I was of the opinion that it ought to be stricken out of the bill; and I move now that it be stricken out. I was dissuaded from asking that action by the committee on the consideration that it was a privilege that perhaps would not be prized very highly by any citizen—the privilege of sending by post a communication written in invisible ink that could not be brought out except by applying heat or through some chemical action. It occurred to me that it might be made use of in these stressful times for the purpose of communicating to the enemy information concerning the national defense, which it would be unfortunate that they should receive; and inasmuch as it is, in the very nature of things, impossible for one to determine whether it is in its nature entirely innocuous or entirely harmful, the only way in which it could be reached at all would be to prohibit the communication altogether; but I am not satisfied that the practice is fraught with any such danger as to necessitate a specific provision of the character contained in the bill.

Another feature of the legislation is—

Mr. REED. Mr. President, the Senator has moved to strike out subdivision (f). Does he desire to have the question put on that motion now?

Mr. WALSH. Unless the chairman of the committee is desirous of disposing of the bill this evening, I would rather allow these suggested amendments to go over.

Mr. OVERMAN. I understand the Senator from Iowa expects to offer some amendments.

Mr. CUMMINS. Mr. President, I think it will be impossible to dispose of the bill to-night. I have certain amendments that I intend to propose to chapter 1, but I am not prepared to offer them at this time. I may say that, in a general way, the Senator from Montana has already anticipated two of them; but there are others. I believe that most of the offenses named in chapter 1 ought not to exist without an intent to injure our country or to aid another. That intent ought to be aptly expressed. Of course I do not mean that it ought to be phrased in the way I have just stated it, but that gives a general idea of my intention.

Mr. WALSH. I understand that is the Senator's idea.

The PRESIDING OFFICER (Mr. HUGHES in the chair). Did the Chair understand the Senator from Montana to say that he made a motion? The clerks at the desk so understood the Senator.

Mr. WALSH. I did.

The PRESIDING OFFICER. Then the motion of the Senator from Montana is the pending question before the Senate.

Mr. WALSH. I said likewise that I did not desire, unless the Senator in charge of the bill wished to dispose of the bill this evening, to have the amendments proposed by me now acted upon.

Mr. OVERMAN. I will ask that the amendments go over for the present. I desire to present some amendments relating to a different subject.

The PRESIDING OFFICER. In order that the parliamentary situation may be clear the Chair will state that the motion of the Senator from Montana is now pending.

Mr. OVERMAN. As I understand, it is an amendment, not a motion.

The PRESIDING OFFICER. The Senator from Montana has moved to strike out subdivision (f) of section 1, chapter 1.

Mr. WALSH. I simply offer the amendment, not for action at this time.

I desire to say, Mr. President, that I am not in harmony with the view expressed just now by the Senator from Iowa. I do not think we ought to make the intent to do harm to the United States or to convey aid or comfort to the enemy an element in

these crimes. We differ radically there, and I would not like to be understood that it is in any such spirit that these amendments tendered by myself are proposed.

Mr. President, we could very readily conceive that some enterprising newspaper man, some writer for the magazines, would go about to get this information without any purpose whatever to convey it to the enemy. He simply wants to do it for the enlightenment of the American people, as he believes, for their information, and perhaps his purpose does not go any further than to make a story that he can sell to some periodical. I think that ought to be guarded in the way that this legislation seeks to guard it.

Mr. CUMMINS. I think I agree with the Senator from Montana in at least some respects. I think that in time of war a certain espionage or certain restrictions may be placed upon the rights of citizens that are not at all desirable in time of peace, and if we were in war I would not complain of proper restrictions being put upon the publication of information concerning our country in a great many things, and especially about the movements of our Army or Navy. But there is a great deal of this bill that is not confined to times of war. The particular paragraph in regard to newspapers, or the general publication of matters concerning the national defense, is confined to time of war; but, for instance, the first paragraph is not. It applies to time of peace. That offense may be committed at any time, and I can not believe that we ought to make it a criminal offense for persons to secure information respecting the national defense in time of peace, unless there is some evil intent in securing the information, unless it has some wrongful purpose.

Mr. WALSH. Mr. President, let me illustrate a little further how the Senator from Iowa and myself differ with respect to that. I was called from the Chamber just 10 minutes ago by an old and very dear friend, who is a writer for the magazines. He is here in the city of Washington to-day for the purpose of finding out about anything with relation to which he could write an interesting story for publication in the magazines. Now, Mr. President, we are in peace at the present time, at war with no nation; but I can not conceive of a subject upon which he could write which would be read with more profound interest at the present time by everybody, or that would be more sensational in its character, than the exact location of the mines that there are supposed to be in New York Harbor; than the whole story of the preparation that has been made all up and down our coast to meet any possible enemy.

Mr. OVERMAN. The wire nets at Guantanamo, for instance.

Mr. WALSH. To tell just exactly how many submarines we have, and just exactly where they are located, and just exactly how they are going to operate.

Mr. LEE of Maryland. Mr. President, will the Senator yield for a question?

Mr. WALSH. I shall be very glad to do so.

Mr. LEE of Maryland. War not being declared, and the ordinary channels of commerce and the movements of people in trade not being stopped, does the Senator believe for a moment that the main details in respect to the things that he has mentioned are not already in the possession of the spies of any possible enemy of this country?

Mr. WALSH. Mr. President, I do not undertake to say. I am very sure that they have very much more information about this matter than we wish they had. But we are taking pains, by means of this legislation, to see that they do not get any more than we can avoid; that is all. We certainly ought to make it criminal upon their part at least to get the information, and, as I understand the Senator from Iowa, he does not object to that at all. So that the suggestion that foreign powers are already possessed of this information has no relevancy, as it seems to me, to the question that is before us, which is whether we ought not only to prevent those who seek to get it for the benefit of foreign nations, but those who seek to get it without any such purpose, but who, by disseminating it, would put it at the command of these people.

Mr. CUMMINS. I was not, as the Senator knows, discussing the publication of information. I was discussing at that moment the first paragraph "(a)" of chapter 1, which covers the effort to secure information. Now, I do not think that the Senator's friend ought to be regarded as a criminal because he attempts to secure that information. As to the location of mines, I do not know that there are any; but I take it that he would not ask the Senator from Montana the location of those mines, because I have an idea that he is just about as ignorant on that subject as I am. But suppose he goes to the Secretary of the Navy and asks for that information, and the Secretary of the Navy says, "I will not give it to you." Suppose he asks without any lawful authority, but simply because he wants the

information, and tries to get it. Under this measure you would denounce him as a criminal.

When it comes to the publication of the information, if you want to extend the right of the President to suppress newspapers in time of peace, that is a distinct subject of itself, I think; and I do not know but that there are a good many things which I would be willing to put into the law that might curtail, to some extent, the freedom of the press. I am speaking now, however, about the effort of the American people, those who are not in official life at all, to secure information with regard to public affairs; because "the national defense" in fact embraces the whole field of public affairs, or may embrace that whole field.

Mr. WALSH. Just another feature, Mr. President. I understood the Senator likewise to object quite strenuously to a provision, found a number of times in the act, under which the President is authorized to use the Army and Navy for the purpose of preventing violations of the act and for apprehending any persons who may be guilty of a violation of them. That has been proposed as something in the nature of a departure in our legislation. It is suggested that legislation of that character vests the President of the United States with the power practically to declare war, because a vessel, for instance, violating any of the provisions of this act and seeking to escape would be fired upon, and that would constitute an act of war. But if that is the case, Mr. President, we have been occupying that field for, lo, these many years.

Mr. OVERMAN. Mr. President, right there, will the Senator yield to me?

Mr. WALSH. Certainly.

Mr. OVERMAN. I call the Senator's attention to article 10 of The Hague International Peace Conference or treaty:

The fact of a neutral power resisting, even by force, attempts to violate its neutrality, can not be regarded as a hostile act.

Mr. CUMMINS. Mr. President, there must be a great misconception somewhere in the minds of the Senator from Montana and the Senator from North Carolina. I did not say that it was a new departure. I offered yesterday an amendment to section 8 of that chapter which relates to embargoes upon arms and munitions of war. I have not even suggested any objection to the same power in other chapters of the act, although I think as to perhaps one other there is a just objection. But we have never yet attempted to confer upon the President of the United States the right to use the Army and Navy for any such purposes, I think, as are found in the chapter—I do not remember its number—to which I have referred.

For instance, I ask the Senator from Montana this question: In the first place, Congress has to authorize the President to proclaim an embargo before he has the authority to do it. It has nothing whatever to do with neutral rights or our obligations to any nation. It is simply a matter as to our own policy. Suppose that Congress should give the President authority to establish an embargo against the exportation of arms and munitions to Canada. The embargo is properly established. A carload of arms or munitions, however, escapes the watchfulness of the officials in charge of such matters, crosses the St. Lawrence River, and is in Montreal. Does the Senator from Montana believe that we ought to authorize the President to lead an army into Canada for the purpose of recapturing the carload of munitions that had passed into that Dominion?

Mr. WALSH. I should say not.

Mr. CUMMINS. Well, that is just exactly what you do in this chapter, if I understand it.

Mr. WALSH. I do not agree with the Senator from Iowa in that construction of it. I think it would be a forced construction to give to the statute to say that it means that we intended to empower the President of the United States to invade a country with which we are at peace by either the Army or the Navy.

Mr. CUMMINS. It is to restrict the President in that respect that I have offered the amendment. I will speak upon it when the time comes, and I think I can convince the Senator from Montana that that is the interpretation which must be placed upon the act, disassociating that interpretation entirely from any suggestion that a President of the United States would do the thing; but I say that that is what we attempt to authorize him to do.

Mr. WALSH. I should hardly think so. Of course, I was not able to be present at all times during the discussion of this subject by the Senator from Iowa. I was referring to some comments that he made in relation to section 8 of chapter 9, appearing upon page 24 of the bill, as follows:

The President of the United States is authorized and empowered to employ such part of the land or naval forces of the United States as shall be necessary to carry out the purposes of this chapter.

It was in reference to whatever the Senator from Iowa said concerning that section that I have spoken; and I understood him to take the position that that section authorized the President of the United States to declare war or to precipitate war—

Mr. CUMMINS. No.

Mr. WALSH. And that it was a departure in our legislation, something that had never before been heard of. Of course, if the Senator does not take that position—

Mr. CUMMINS. The Senator is partly right. It is to that section that my remarks were directed yesterday, and it is to that section that I offered an amendment which I withdrew for the purpose of reframing it. The general purport of the amendment was to declare that the section shall not be construed to authorize the President to commit an act of war. As I now have it, it is that it shall not be construed to authorize the President to use the Army and Navy beyond the territorial limits of the United States to commit an act of war against a nation with which we are then at peace.

Mr. WALSH. Then, Mr. President, I want to call the attention of the Senate to a precedent for this legislation as old as 1838, an act under which the President of the United States was authorized to employ the land and naval forces of the country, and it was not deemed necessary to put into that act a stipulation that he should not invade the territory of a country with which we were at peace. I read from page 214 of the fifth United States Statutes at Large, an act approved March 10, 1838, which contains the following language:

That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation, and to enforce the due execution, of this act, and the act hereby amended.

Now let me remark, Mr. President—

Mr. CUMMINS. What was the act? I am not familiar with it.

Mr. WALSH. The act, Mr. President, was passed in view of the threatened invasion of Canada, as it will be recalled, about that time, by forces from this side of the international boundary line. It is entitled:

An act supplementary to an act entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved April 20, 1818.

It provides for the seizure of any vehicles or any vessel or any arms going across the border pursuant to a conspiracy hatched in this country to overturn the Government of Canada.

I also call attention to an act older than that, dating from 1818. I read from the fifth volume, Federal Statutes, annotated—

Mr. CUMMINS. May I comment for a moment on the act to which the Senator has just referred?

Mr. WALSH. Certainly.

Mr. CUMMINS. It is very plain that the President's authority under that act was limited to things done within the territorial limits of the United States. In the act to which I have offered my amendment, as I understand it, there are provisions for the execution of whatever power we have beyond the territorial limits of the United States. I have no objection to the use of the Army and Navy within our own territorial limits. My objection is to the use beyond our own jurisdiction.

Mr. WALSH. Certainly the Senator could find no authority in the language to which I have called his attention at page 24 of the bill which is not likewise found in the act of 1838, for the language is identical.

Mr. CUMMINS. That depends entirely on the nature of the offense that is to be punished or the nature of the act which is to be prevented. It was said yesterday very emphatically—I think the Senator from Montana was absent—that if, for instance, a ship escaped, having received clearance from our ports and having gone upon the high seas, possibly having reached a foreign port, and it being discovered that it had carried arms or munitions contrary to the proclamation of embargo, it was expected that our warships would pursue the ship, and no matter where she might be found, capture her and return her to the port from which she sailed.

Mr. WALSH. I do not see how possibly a court could ever give any construction of that character to the act. It clearly means that she may be seized within our territorial waters or that she may be seized on the high seas.

The next statute which I am going to call to your attention is just that kind of a case in which the President is authorized to pursue any vessel leaving our waters without the requisite permission and to use the Army and Navy to seize and capture that vessel and bring her back; but no one ever thought he had the right to invade the territorial waters of another State to do it.

It dates from 1818, and is quoted in the fifth volume of Federal Statutes, annotated at page 376, and reads as follows:

It shall be lawful for the President, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign vessel to depart the United States in all cases in which, by the laws of nations or the treaties of the United States, she ought not to remain within the United States.

That was not construed as authorizing the President to follow the vessel across into her home waters or into the waters of some neutral nation and there seize her.

Mr. CUMMINS. I do not believe the President ought to use the Navy on the high seas for that purpose; but the Senator from Montana will differ with me in regard to that.

Mr. WALSH. I do differ very decidedly.

Mr. CUMMINS. But, aside from that, the Senator from Montana agrees with me in regard to the matter. Our only disagreement is that, in his opinion, the amendment is not necessary.

Mr. WALSH. Quite so, except that I was misled apparently into the belief that the Senator reached the conclusion that the use of the Army and Navy for the purposes in our own territorial waters or upon the high seas would be a grant of power to the President of the United States to declare war.

Mr. FLETCHER. Will the Senator allow me a moment? I think the Senator from Iowa had in mind some observations made by the Senator from New Mexico [Mr. FALL] upon that subject. I do not understand that the Senator from New Mexico contended that the vessel could be pursued into the waters of another country or another State. I think his idea was that the vessel could be pursued and captured, if possible, upon the high seas, but beyond that I do not think he meant to go.

Mr. CUMMINS. I may have misunderstood him. I have not read his speech since it was published, but I understood him to say that it would enable us to go into the interior of a foreign country and take the arms and munitions from the person to whom they had been delivered and return them to the United States; but I may be wrong about that.

Mr. OVERMAN. I offer some amendments which do not change the substance at all, but merely the punctuation.

The PRESIDING OFFICER. The Secretary will state the amendments.

The SECRETARY. On page 4, line 9, insert a comma after the word "to" and before the word "communicate"; on page 7, line 8, strike out the comma after the word "chapter"; on page 10, line 1, abbreviate "Section" to "Sec."; on page 18, line 7, insert a comma after the word "in"; and on page 38, line 1, insert the article "a" before the word "description."

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

RIGHT OF WAY FOR DRAINAGE OPERATIONS.

Mr. FLETCHER. May I ask the Senator from North Carolina to yield to me for a moment to get consent to call up a bill which is of pressing and great importance not only to the people in my State, but elsewhere? It proposes to give people interested in drainage operations the same right of way across Government lands that those engaged in irrigation operations have. It just adds the word "drainage" after "irrigation" in the irrigation act. The bill was up the last time we considered the calendar, but on account of a mistake in the report it went over. I had it recommitted at once, and since then it has been reported by the committee and is again on the calendar. Those who found some criticism with the form of the bill before I think are entirely satisfied with it now. I know the Senator from Washington [Mr. POINDEXTER] objected to it.

The PRESIDING OFFICER. The bill will be stated by title.

The SECRETARY. A bill (S. 7710) to amend the irrigation act of March 3, 1891 (26 Stat., 1095), section 18, and to amend section 2 of the act of May 11, 1898 (30 Stat., 404).

Mr. FLETCHER. It will not take two minutes to pass the bill. I do not think anyone will object to it.

The PRESIDING OFFICER. Is there objection?

Mr. CATRON. I object.

Mr. FLETCHER. Who makes the objection, may I ask?

Mr. CATRON. I object.

ORDER FOR RECESS.

Mr. OVERMAN. I move that at the close of the session today the Senate shall take a recess until 11 o'clock to-morrow.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. BANKHEAD. I wish to have a short executive session that some nominations may be referred and that others may be placed on the calendar.

Mr. NORRIS. I hope the Senator will not make that motion. I dislike to make the point of no quorum, but I object to an executive session to-night.

Mr. BANKHEAD. I simply want to have some nominations referred and others that are ready to be put on the calendar placed there. I do not want any action taken on them at all. It will take only about two minutes.

Mr. NORRIS. It is just to allow reports of nominations to be made and placed on the calendar?

Mr. BANKHEAD. And references made. That is all.

Mr. NORRIS. I have no objection to that.

Mr. BANKHEAD. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 6 o'clock and 15 minutes p. m., Saturday, February 17, 1917) the Senate took a recess until to-morrow, Sunday, February 18, 1917, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate February 17 (legislative day of February 14), 1917.

JUDGES OF CIRCUIT COURTS.

Samuel B. Kemp, of Honolulu, Hawaii, to be second judge of the circuit court of the first circuit of the Territory of Hawaii, vice William L. Whitney, resigned.

William H. Heen, of Honolulu, Hawaii, to be third judge of the circuit court of the first circuit of the Territory of Hawaii, vice James L. Coke, appointed associate justice of the Supreme Court of Hawaii.

COAST GUARD.

Third Lieut. of Engineers Gustavus Richard O'Connor to be second lieutenant of Engineers in the Coast Guard of the United States, to rank as such from August 13, 1916, in place of Second Lieut. of Engineers John T. Carr, promoted.

PROMOTIONS IN THE ARMY.

CHAPLAIN.

Chaplain John T. Axton, Twentieth Infantry, to be chaplain with rank of major from March 5, 1917, vice Chaplain James W. Hillman, Sixteenth Infantry, to be retired by operation of law March 4, 1917.

PROVISIONAL APPOINTMENT, BY TRANSFER, IN THE ARMY.

Second Lieut. Frederic Charles Dosé, Seventh Field Artillery, to be second lieutenant of Infantry with rank of November 30, 1916.

Second Lieut. Edward Martin Smith, Seventh Infantry, to be second lieutenant of Field Artillery with rank from November 30, 1916.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Commander Jehu V. Chase to be captain in the Navy from the 29th day of August, 1916.

Lieut. Commander Henry E. Lackey to be a commander in the Navy from the 29th day of August, 1916.

Lieut. Reuben B. Coffey to be a lieutenant commander in the Navy from the 29th day of August, 1916.

Naval Constructor William G. Du Bose, with the rank of lieutenant commander, to be a naval constructor in the Navy with the rank of commander from the 29th day of August, 1916.

Douglas B. Parker, a citizen of New York, to be an assistant dental surgeon in the Dental Reserve Corps of the Navy from the 30th day of January, 1917.

The following-named first lieutenants to be captains in the Marine Corps from the 29th day of August, 1916:

Julian C. Smith,
Paul C. Marmion, and
Lowry B. Stephenson.

The following-named citizens to be second lieutenants in the Marine Corps, for a probationary period of two years, from the 6th day of February, 1917:

Maurice G. Holmes, a citizen of Mississippi,
Charles C. Gill, a citizen of Tennessee,
James E. Betts, a citizen of Iowa,
Norman S. Hinman, a citizen of Ohio,
George F. Adams, a citizen of Virginia,
John H. McCabey, a citizen of Pennsylvania,
Wethered Woodworth, a citizen of California,
James W. Webb, a citizen of Alabama,
John M. Tildsley, a citizen of Mississippi,
Le Roy P. Hunt, a citizen of California,
Louis E. Woods, a citizen of New York,
Edward R. Rhodes, a citizen of Massachusetts,

Harry K. Cochran, a citizen of Missouri,
Donald R. Fox, a citizen of New York,
William McN. Marshall, a citizen of Colorado,
George H. Scott, a citizen of South Dakota,
Alexander Galt, a citizen of Virginia,
Paul R. Cowley, a citizen of Massachusetts,
Allen W. Harrington, jr., a citizen of Massachusetts,
Bailey M. Coffenberg, a citizen of New York,
Eugene F. C. Collier, a citizen of the District of Columbia,
Evans O. Ames, a citizen of California,
Stanley M. Mucklestone, a citizen of Wisconsin,
William H. Davis, a citizen of Idaho,
Richard N. Platt, a citizen of New Jersey,
William E. Williams, a citizen of the District of Columbia,
William W. Scott, jr., a citizen of West Virginia, and
Franklin A. Hart, a citizen of Alabama.

POSTMASTERS.

CALIFORNIA.

Ida M. Fink to be postmaster at Crows Landing, Cal. Office became presidential October 1, 1916.

John W. Foley to be postmaster at Amador City, Cal. Office became presidential October 1, 1916.

S. R. Jumper to be postmaster at Balboa, Cal. Office became presidential January 1, 1917.

Annie M. Lepley to be postmaster at Plymouth, Cal. Office became presidential October 1, 1916.

FLORIDA.

Edward B. Langford to be postmaster at Zolfo, Fla. Office became presidential January 1, 1917.

INDIANA.

James H. Spilman to be postmaster at Milroy, Ind., in place of James R. Sage, resigned.

ILLINOIS.

Anna Byron to be postmaster at Bourbonnais, Ill. Office became presidential January 1, 1917.

IOWA.

Arthur E. Bassett to be postmaster at Little Sioux, Iowa. Office became presidential October 1, 1916.

Oscar O. Conwell to be postmaster at Lovilia, Iowa. Office became presidential October 1, 1916.

William H. Fowler to be postmaster at Paton, Iowa. Office became presidential October 1, 1916.

C. Ola Goode to be postmaster at Melcher, Iowa. Office became presidential October 1, 1916.

John Grant to be postmaster at Stanwood, Iowa. Office became presidential October 1, 1916.

H. P. Juhl to be postmaster at Thompson, Iowa, in place of Manford C. Evans, resigned.

Jeter H. Jurgensen to be postmaster at Lowden, Iowa. Office became presidential October 1, 1916.

Josephine McMahon to be postmaster at Melbourne, Iowa. Office became presidential October 1, 1916.

H. D. Mussman to be postmaster at Germania, Iowa. Office became presidential October 1, 1916.

Emil M. Peters to be postmaster at Schleswig, Iowa. Office became presidential October 1, 1916.

Mayme L. Petersen to be postmaster at Titonka, Iowa. Office became presidential October 1, 1916.

KANSAS.

Beatrice Hoffman to be postmaster at Harper, Kans., in place of A. B. Hoffman, deceased.

MAINE.

Edward C. Watson to be postmaster at Naples, Me. Office became presidential January 1, 1917.

MASSACHUSETTS.

James H. Madigan to be postmaster at Harvard, Mass. Office became presidential October 1, 1916.

Charlotte L. Parker to be postmaster at Osterville, Mass., in place of Charlotte L. Parker. Incumbent's commission expired July 18, 1916.

Willard H. Rowell to be postmaster at Wrentham, Mass., in place of Hiram A. Cowell, resigned.

Joseph H. Whelan to be postmaster at South Lancaster, Mass., in place of F. A. Hanaford. Incumbent's commission expired July 18, 1916.

MICHIGAN.

Sara E. C. Irish to be postmaster at Bay View, Mich. Office became presidential October 1, 1916.

Frank A. Miller to be postmaster at Gladstone, Mich., in place of Otto L. Mertz, removed.

MINNESOTA.

James H. Tofflemire to be postmaster at Jeffers, Minn. Office became presidential October 1, 1916.

MISSISSIPPI.

Woodard M. Herring to be postmaster at Inverness, Miss. Office became presidential October 1, 1916.

J. R. Moreland to be postmaster at Philipp, Miss. Office became presidential October 1, 1916.

Nora B. Rose to be postmaster at Shelby, Miss., in place of Rosa Mayers, resigned.

William J. Stephens to be postmaster at Webb, Miss. Office became presidential October 1, 1916.

MISSOURI.

Robert J. Ball to be postmaster at Gallatin, Mo., in place of Robert J. Ball. Incumbent's commission expires May 1, 1917.

Frank D. Lair to be postmaster at Charleston, Mo., in place of Eugene H. Smith, resigned.

NEBRASKA.

Laura E. Smith to be postmaster at Doniphan, Nebr. Office became presidential October 1, 1916.

NEW HAMPSHIRE.

Arthur H. Rollins to be postmaster at Andover, N. H. Office became presidential October 1, 1916.

NEW YORK.

George B. Burdick to be postmaster at De Ruyter, N. Y., in place of Charles P. Monro, resigned.

Thomas G. Patten to be postmaster at New York, N. Y., in place of Edward M. Morgan. Incumbent's commission expired December 14, 1915.

Eva K. Stuppelbeen to be postmaster at Nassau, N. Y., in place of Eva S. Kirby, name changed by marriage.

Herbert C. Wood to be postmaster at Morrisville, N. Y., in place of Irving D. Blowers, resigned.

NORTH CAROLINA.

H. Roy Martin to be postmaster at Mayodan, N. C. Office became presidential October 1, 1916.

NORTH DAKOTA.

R. E. Itskin to be postmaster at Hazen, N. Dak. Office became presidential October 1, 1916.

OHIO.

Lena L. Reed to be postmaster at Amanda, Ohio. Office became presidential October 1, 1916.

George M. Towle to be postmaster at Sardis, Ohio. Office became presidential October 1, 1916.

OKLAHOMA.

Samuel L. Arnold to be postmaster at Devol, Okla. Office became presidential January 1, 1917.

Edwin R. Harrison to be postmaster at Byars, Okla. Office became presidential October 1, 1916.

C. B. McCallon to be postmaster at Kiefer, Okla., in place of O. P. Ramsey, resigned.

David M. Watson to be postmaster at Francis, Okla. Office became presidential October 1, 1916.

PENNSYLVANIA.

C. E. Chapel to be postmaster at Youngsville, Pa., in place of Ephraim A. Swanson, deceased.

John L. Goss to be postmaster at Expedit, Pa., in place of Thomas F. Curry, resigned.

J. W. Keffer to be postmaster at Starjunction, Pa., in place of Isaac Lowe, resigned.

Ella I. Price to be postmaster at Canadensis, Pa. Office became presidential January 1, 1917.

W. A. Walker to be postmaster at Warren, Pa., in place of Edwin R. Allen. Incumbent's commission expired August 20, 1916.

TENNESSEE.

J. B. Moore to be postmaster at Smithville, Tenn., in place of Clarence W. Moore, resigned.

Joe D. Sperry to be postmaster at Mount Juliet, Tenn. Office became presidential October 1, 1916.

WISCONSIN.

Frank H. Grimm to be postmaster at Cassville, Wis., in place of Aloys Grimm, resigned.

Malcolm McNaughton to be postmaster at New Auburn, Wis. Office became presidential October 1, 1916.

Richard S. Serrurier to be postmaster at Wilton, Wis. Office became presidential October 1, 1916.

Oscar M. Waterbury to be postmaster at Williams Bay, Wis. Office became presidential October 1, 1916.

VIRGINIA.

William D. Davies to be postmaster at Manassas, Va., in place of A. W. Sinclair, deceased.

Harry A. Lamb to be postmaster at Ocean View, Va. Office became presidential October 1, 1916.

WITHDRAWAL.

Executive nomination withdrawn February 17 (legislative day of February 14), 1917.

Mary L. Sage to be postmaster at Milroy, Ind.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 17, 1917.

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord, our Lord, how excellent is Thy name in all the earth, before whom millions prostrate themselves day unto day and night unto night! Teach us wisdom, justice, mercy, truth, righteousness; that our worship may be free from cant and hypocrisy; that it may be acceptable unto Thee and inspiring to us; that we may meet all the conditions of life without fear and go forth to the work Thou hast given us to do willingly, patiently, conscientiously, leaving the results to Thee; for Thine is the kingdom and the power and the glory. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, its enrolling clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 19410) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1918, and for other purposes, had requested a conference with the House on the bill and amendments, and had appointed Mr. BANKHEAD, Mr. SMITH of South Carolina, and Mr. TOWNSEND as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 12463. An act for the relief of Meredith G. Corlett, a citizen and resident of Williamson County, Tenn.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 6850. An act authorizing the transfer of certain retired Army officers to the active list; and

S. 7872. An act to confirm and ratify the sale of the Federal building site at Honolulu, Territory of Hawaii, and for other purposes.

The message also announced that the Vice President had appointed Mr. MARTINE of New Jersey and Mr. JONES members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Treasury Department.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8113. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. 8120. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; to the Committee on Pensions.

S. 6690. An act for the relief of Americus A. Gordon; to the Committee on Military Affairs.

S. 3771. An act for the relief of Alfred Cluff, Orson Cluff, Henry E. Norton, William B. Ballard, Elijah Hancock, Mrs. Susan R. Saline, Oscar Mann, Celia Thayne, William E. Cox, Theodore Farley, Adelaide Laxton, Clara L. Tenney, George M. Adams, Charlotte Jensen, Sophia Huff, Peter H. McBride, and David Edward Adams; to the Committee on Claims.

POST OFFICE APPROPRIATION BILL.

Mr. MOON, Mr. MOORE of Pennsylvania, and Mr. LEWIS rose.

The SPEAKER. The gentleman from Tennessee.